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House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. SHAW).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 20, 1998.

I hereby designate the Honorable E. CLAY SHAW, Jr. to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

Reverend Scott Rambo, First Baptist Church, Sugar Land, Texas, offered the following prayer:

Let us pray together. Father, we come before You this morning, thanking You so much for all the blessings that You give us in life. I thank You for the privilege of being an American citizen and for the honor of being able to pray for the men and women who lead our country. I pray Your blessings and Your wisdom upon them as they lead us.

Father, as I reflect on the images of the great lawgivers whose faces are all around the walls of this Chamber, Father, my attention is focused on Moses, the only lawgiver whose full face is shown. Father, when I think about that and know that his full face is shown because he is the only lawgiver who received his law directly from You and not from man, I am reminded that our ultimate authority for all of life is You.

Lord, I pray Your success formula for our Nation today. Father, You tell us in Your word that if we will humble ourselves and pray and seek Your face and turn from our wicked ways, then You will hear our prayers, You will forgive our sins, and You will heal our land.

Father, I ask that You help us to humble ourselves before You and turn from any wickedness that may be in our lives. Father, I pray as we do that, You will hear our prayers and heal our land. Grant us the strength and courage to follow You every day.

Again, I thank You so much for the blessings and the grace and mercy that You give us every day. I pray Your blessings on this day and all that takes place in this House. I pray this in Jesus' name. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio (Mr. TRAFICANT) come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 3301. An act to amend chapter 51 of title 31, United States Code, to allow the Secretary of the Treasury greater discretion with regard to the placement of the required inscriptions on quarter dollars issued under the 50 States Commemorative Coin Program.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will receive 15 1-minutes on each side, following the gentleman from Texas (Mr. DELAY).

REVEREND SCOTT RAMBO

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, our opening prayer this morning was offered by my good friend and pastor of my church, Reverend Scott Rambo.

Reverend Rambo has ministered to the spiritual needs of many of my constituents since 1995, when he became the pastor of the First Baptist Church of Sugar Land, Texas.

Since becoming pastor of the first Baptist Church, Reverend Rambo has brought excitement and a sense of mission to our community. His message of faith and family has inspired many, as witnessed by the astronomic growth of the First Baptist Church of Sugar Land.

Reverend Rambo is a graduate of the University of South Alabama and of the Southwestern Baptist Theological Seminary. He started his career as the Minister of Evangelism at the Retta Baptist Church in Burleson, Texas. He became the youth minister at the Hillcrest Park Baptist Church in Arlington, Texas, then moved to Dallas to take the job of Associate Youth Minister at the First Baptist Church of Dallas.

He then left Texas for 3 years, serving as the Associate Pastor of the First Baptist Church in Bossier City, Louisiana. But, like all Texans, he could not leave Texas, he had to come home, so he returned back to Texas and started his current ministry in Sugar Land, Texas.

Reverend Rambo, in my opinion, is a man that truly has a heart and a love

for the Lord, and I want to thank Reverend Rambo for his inspirational words today and thank him for the inspirational work that he does in Sugar Land, Texas.

So I want to welcome him to the House, and thank him for all his good work.

NATIONAL SECURITY TOO IMPORTANT TO BE AUCTIONED OFF TO HIGHEST BIDDER

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, Americans awoke this morning with a number of new questions on their minds, beginning with why would the Clinton administration switch the responsibility for satellites from the Department of State to the Commerce Department?

Both the State Department and Defense Department were against this move. They knew these communication satellites were one of America's most sensitive military and intelligence gathering technologies. Even the former Secretary of State, Warren Christopher, wrote to the President that these sophisticated communication satellites held technology secrets that could jeopardize, and I quote, ''significant military and intelligence interests of America.''

Was Secretary Christopher reluctant because he understood the importance of the built-in encryption equipment that interprets the ground controller's instructions; or was it because he knew that similar encryption systems were used to communicate with America's spy satellites?

Did the Commerce Department in any way understand that anyone who could crack these codes could take control of these satellites themselves? Did anyone care? Was there some other issue driving this change?

America deserves to know the answers to these questions, Mr. Speaker.

SUPPORT H.R. 692 TO APPOINT INDEPENDENT COUNSEL TO INVESTIGATE GOVERNMENT WRONGDOING

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Federal agents killed his dog, they killed his 14-year-old son, and they killed his wife. Federal agents said they did not like his politics.

Randy Weaver is a white separatist. My colleagues do not like his politics, I do not like Weaver's politics either, but that is no reason for the government to gun down his family.

Let me tell my colleagues something. This does not sound like the FBI of Efrem Zimbalist, Jr. This sounds like the KGB of Joseph Stalin.

To make matters worse, a Federal judge dropped all charges against the FBI agent who shot Vicky Weaver right between the eyes while clutching her infant son. Shame, my colleagues. Congress, the Justice Department investigates themselves and then they cover their assets every time.

We are a bunch of fools. It is time to put our government in order. Support H.R. 692 and put an independent counsel on these types of cases. Shame, Congress. No American family should be gunned down.

SUPPORT H.R. 2183, FRESHMEN CAMPAIGN FINANCE REFORM BILL

(Mr. ALLEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLEN. Mr. Speaker, Congress has spent millions of dollars to investigate soft money abuses, but there are many Members in this Chamber who will rail against certain big money contributions and then vote against campaign finance reform.

The freshmen took a different tact. We put together a bill that would ban soft money, improve candidate reporting and require some disclosure of the outside group advertising. H.R. 2183 closes the soft money loophole, it gets elected officials, candidates, and party officials out of the business of raising money from corporations and unions and the wealthiest contributors.

Later this week the long delayed debate on real campaign finance reform will begin. Now we must watch out for poison pills and red herrings. Poison pills are amendments that sound great but are designed to kill campaign finance reform; and red herrings are arguments about suppression of free speech that are designed for simply the same purpose.

Support the freshmen bill, support campaign finance reform, let us get on with the business of reforming our campaign finance system.

NATIONAL SECURITY IS MOST IMPORTANT IN INVESTIGATING MISSILE TECHNOLOGY TRANSFER TO CHINA

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, I am sure my Democrat colleagues will exhibit the same zeal and passion to get to the truth about the allegations of missile technology to Communist China as they are about finding answers to the question of who hired Craig Livingstone, or about how the White House ended up with 900 FBI files on Republicans, or about 92 witnesses that have either fled the country or taken the Fifth Amendment to avoid testifying, and about why Mrs. Hubbell is afraid, very afraid, of losing her job if Webster Hubbell cooperates with Judge Starr.

If the past is any guide, I am sure the Democrats will leave no stone unturned in seeking the truth about these stunning revelations about illegal campaign contributions in return for missile technology to Communist China.

That said, I urge my colleagues to investigate this matter with their minds focused on one thing and one thing only: National security. National security is not a partisan issue. It is about protecting our values and our way of life from those whose entire political system is hostile to our belief in freedom, the rule of law, individual rights, and the right to worship God as we see fit.

HOUSE SHOULD MAKE DECISION ON DRUG TESTING OF DOD EMPLOYEES

(Mr. TAYLOR of Mississippi asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAYLOR of Mississippi. Mr. Speaker, our Nation this year is going to spend $18 billion on the war on drugs. As we speak, there are Americans flying counter drug missions in places like Colombia and Peru, and they are being shot at, and pretty often they get killed.

Mr. Speaker, imagine my surprise then when, just yesterday in the Committee on Rules, an amendment to require all Department of Defense employees to be drug tested was voted down along straight party lines. Every single Republican voted against requiring our Department of Defense employees to be drug tested. I think that is a decision the full House should make.

Mr. Speaker, I wanted to tell my colleagues that if they had plans for this weekend, they should cancel them, because I am going to keep us here until we have a vote on that amendment.

I want to tell the gentleman from New York (Mr. SOLOMON) and the gentleman from Georgia (Mr. GINGRICH) that we can have a half-hour of debate on that issue and an up or down vote, or we can spend a Memorial Day weekend here in Washington.

SHOCKING REVELATION THAT WHITE HOUSE IS HELPING COMMUNIST CHINA WITH ITS MISSILE PROGRAM

(Mr. NEUMANN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEUMANN. Mr. Speaker, of all the scandals coming out of the White House, this scandal is perhaps the most disturbing of all. I am talking about the shocking revelation that the White House is helping the Communist government develop its missile system.

Do we, as a nation, understand that what we are doing is sending them the technology to allow them to aim missiles at the United States of America, while when we here in our Nation do not even have the ability to shoot

down one of these missiles should China decide to launch them at us?

We do not know if the administration gave this waiver to the Loral Company because the chairman of the board, Bernard Schwartz, was the Democrats' top donor in 1996 or not. But whether the administration did it for money, the scandal is still beyond comprehension.

If this administration actively helped the Communist government to launch and to develop its ''Long March'' missile, we deserve an explanation and we deserve the explanation right now.

LIFT EMBARGO ON FOOD, MEDICINE AND MEDICAL EQUIPMENT TO PEOPLE OF CUBA

(Mr. TORRES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRES. Mr. Speaker, for 39 years the United States has maintained an economic embargo on the Republic of Cuba, all with the intent of toppling Fidel Castro. Thirty-nine years. Nine U.S. Presidents. And nothing has happened. He is still there.

My colleagues, Helms–Burton has increased tightening the noose on those people. We are punishing the people of Cuba. We have effectively perpetuated malnutrition and disease because they cannot get food and medicines, contrary to the arguments that we hear that they can. Senior citizens, children, women, men are slowly starving to death.

We cannot do this to another Nation, as great a republic as we are. H.R. 1951, a bill that I have introduced, would lift the embargo on food and medicine and medical equipment to the people of Cuba, and I ask my colleagues on both sides to join with me in cosponsoring this legislation. No less than the Pope has said that this is a monstrous act that we perpetuate upon the people of Cuba.

□ 1015

WHY WOULD CLINTON ADMINISTRATION HELP COMMUNIST CHINESE GOVERNMENT?

(Mrs. KELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KELLY. Mr. Speaker, just what is it about the Democrats and foreign policy? Why on earth would the Clinton administration help the Communist Chinese government develop their Long March missile?

The facts are pretty clear. The Chinese Long March missile was made by Loral Corporation. In missile tests, the early Long March missile kept crashing and the Communist Chinese desperately needed high technology that only the United States possessed. They wanted to improve missile guidance systems, but the U.S. had a policy that stood in the way.

In fact, a criminal investigation was already underway about missile technology to China when the White House overrode the Justice Department and the Defense Department, granting Loral a waiver to give China a missile system.

Again, the question that must be answered, why would the Clinton administration try to help the Communist Chinese government with their missile program? We need an answer to this question. Clintonism is Carterism without virtue.

TRIBUTE TO TAMPA BAY POLICE OFFICERS

(Mr. DAVIS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Florida. Mr. Speaker, James Brad Crooks, a brand new highway patrol trooper in Florida engaged to be married; Randy Bell, a Tampa police detective, a 20-year veteran of the force described as a hard worker with quiet ambition; Rick Childers, a Tampa Police Department detective, another 20-year veteran, who in 1990 bravely went into a creek and saved a young girl who was drowning in a car. These law enforcement officers have solved hundreds of cases, saved many lives in the Tampa Bay area that I represent.

Yesterday, each of them died in the line of duty at the hands of a gunman who later took his own life and also at a time when his 4-year-old stepson died under questionable circumstances.

I stand here on the floor of the House today to express our sorrow to the families of these 3 slain law enforcement officers, to express gratitude for their lifetime commitment they made to protect our community and to salute them for their efforts, and to say that we will try to learn from the terrible lessons of this terrific tragedy that struck the Tampa Bay area yesterday. Our thoughts and prayers are with their families and with all of their colleagues who are grieving.

END UNITED STATES SUPPORT FOR SUHARTO DICTATORSHIP IN INDONESIA

(Mr. SANDERS asked and was given permission to address the House for 1 minute.)

Mr. SANDERS. Mr. Speaker, I am happy to announce that 2 Members of the House have now signed a letter to President Clinton which calls for an end to U.S. support for the Suharto dictatorship in Indonesia. I hope that more of my colleagues will sign it in the coming days.

While the transition to democracy in Indonesia will not be easy, the United States should play an active role in helping to develop a process by which Suharto's political prisoners are released, free speech is guaranteed to all, and an approach is created for free and fair elections.

Most importantly, we must let the Indonesian people know that we will not continue in any way to support the corrupt Suharto dictatorship, a regime which over the last 32 years has not only killed hundreds of thousands of people, but which has enabled the Suharto family to accumulate over $40 billion in personal wealth in a country where the average income is $20 a week.

Mr. Speaker, tens of thousands of Indonesian students have put their lives on the line for freedom. We must listen to their cries.

REPEAL MARRIAGE PENALTY TAX

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, marriage, the very foundation of American social structure, is currently undermined by our American Federal Tax Code.

That is right. Our current Tax Code, instead of being friendly to a husband and wife who both work full-time, places a tax penalty on them solely for the fact that they are married. Under the Tax Code, had this man and woman chosen to live together and file separately, they would not be punished with higher taxes. Mr. Speaker, this is just plain wrong. Our tax policy should encourage family formation in marriage, not discourage it.

As our budget negotiations begin and as we seek tax relief for the American people, a repeal of the marriage tax penalty should be a part of the mix. This penalty hidden within the Tax Code harms the very institution on which we have built our society, our family. Let us repeal the marriage tax penalty once and for all.

CAMPAIGN FINANCE REFORM

(Mr. KIND asked and was given permission to address the House for 1 minute.)

Mr. KIND. Mr. Speaker, tomorrow we are going to start a debate about the biggest issue confronting this United States Congress, and that is campaign finance reform.

There has been a lot of allegations about technology transfer to China in recent days and a lot of attention given to it, as it should. But the Speaker indicates that this is a national security issue and not a campaign finance reform issue. How wrong he is. This has everything to do with campaign finance reform.

We have been promised over and over again by the leadership in this House to have an open and fair and honest debate on campaign finance reform. The American people get this. They understand there is too much money in the political system and too much influence of money in the political system.

This body, in the coming days, will have the ability to start cleaning up the process and restoring some integrity to this democracy of ours. And I hope the American people hold us individuals accountable on where we stand

on this. Do we stand for reform or do we stand for big money? I hope it is for reform.

TECHNOLOGY TRANSFER TO CHINESE BAD FOR U.S. NATIONAL SECURITY

(Mr. RILEY asked and was given permission to address the House for 1 minute.)

Mr. RILEY. Mr. Speaker, our Commander-in-Chief and our President's national security doctrine seems to be ''anything for a buck.''

A 1997 Pentagon report revealed that a defense contractor had given highly technical information regarding a failed space launch to the Great Wall Industry. Great Wall also produces key components to China's strategic nuclear missiles. The Pentagon concluded that this transfer of information damaged our United States national security, and the Department of Justice has been conducting a criminal investigation into the transfer.

That is until the President got involved. The President, however, approved a waiver for the export of that same technology, effectively killing the criminal investigation. Conveniently, the chairman of the aerospace firm being investigated was the largest donor to the Democratic Party last year.

The Clinton Administration continues to follow a policy of helping its friends at the expense of national security. It does not take a Pentagon report or a rocket scientist to figure out that the transfer of missile technology to the Communist Chinese is bad for the United States national security.

MARRIAGE TAX PENALTY

(Mr. ROGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGAN. Mr. Speaker, no sane individual, if asked to start from scratch, would come up with the current tax code in a million years. A tax code that is baffling even to the experts is indefensible.

One of the aspects of the tax code that is particularly obnoxious is the marriage tax penalty. Many people do not learn about the marriage tax penalty until they get married. Then they discover all of a sudden that the Government wants to make sure that couples just starting out have a little bit tougher time than they had planned.

Perhaps most surprising of all is the fact that the marriage penalty can be stiffest for those who can afford it least, the working poor. Those who benefit from the earned income tax credit can face a marriage penalty that can only be described as destructive.

This tax code monstrosity should have been done away with years ago. It will take a Republican Congress to do away with it now. I urge my colleagues to pass H.R. 3734.

GLOBAL WARMING TREATY

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, on December 11, 1997, the United States became a signatory to the Kyoto Protocol, or so-called global warming treaty. They did this despite the fact that the treaty went against the unanimous advice of the Senate.

In Kyoto, the administration completely ignored the Senate position and did exactly the opposite. Now there is wide concern that the administration is working proactively to implement the Kyoto targets through the back door. Part of this stems from the EPA indicating its plan to draft new clean air rules enacting portions of the Kyoto protocol.

That is why I introduced the American Economy Protection Act, H.R. 3807, which will ensure that the Kyoto Protocol is not implemented through the regulatory process. H.R. 3807 would prevent the administration from implementing this dangerous treaty in the absence of Senate ratification by requiring that Federal funds cannot be used for rules, regulations, or programs designed to execute the Kyoto Protocol.

This bill maintains the integrity of the United States Constitution and supports continued economic growth in this country. I urge support of this bill.

IMMIGRATION REFORM AND IMPROVEMENT ACT OF 1998

(Mr. ROGERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGERS. Mr. Speaker, are my colleagues tired of hearing about thousands of felons being naturalized as American citizens by an agency out of control? Are my colleagues tired of having lost control of our borders? Are they tired of a bureaucracy that allows millions of illegal aliens simply because they overstayed while on a legal visa?

Mr. Speaker, today I am introducing legislation to overhaul and dramatically improve the Nation's immigration system. The bill would enact the reforms proposed by the bipartisan Commission on Immigration Reform, headed by the late Barbara Jordan.

These reforms, received by Congress last year, are based on the most comprehensive bipartisan study of our immigration system to date and they offer a common-sense approach to fixing a system that is broken, failing the citizens it is supposed to protect and the immigrants it is supposed to serve.

Since 1984, the Congress has increased the budget of the INS by over 600 percent, yet illegal immigration is at an all-time high and service for illegal immigrants is at an all-time low. Money is no longer an excuse. By implementing these changes, we can end the 3-year backlogs in benefits processing, end the granting of citizenship to criminals and other undeserving individuals, and end the mismanagement of our entire immigration system.

HIGH TECHNOLOGY TRANSFERS TO COMMUNIST CHINA

(Mr. COOKSEY asked and was given permission to address the House for 1 minute.)

Mr. COOKSEY. Mr. Speaker, it might very well be impossible to prove the quid pro quo which seems obvious to all observers, Chinese money to the Democrats in exchange for high technology to the Chinese.

But whether the Clinton administration changed the policy to give high technology to the Chinese because they were taking millions of dollars in illegal campaign donations or not, the scandal is still the same.

Why did the Clinton administration go against its own Defense Department and the Department of State in giving sensitive technology to Communist China? I would like to insist on this point. Taking campaign money from Communist China is a crime, a serious crime. Crimes have been committed. But giving high technology to Communist China and endangering national security is an even more serious crime.

The first subverts democracy and is evidence of political corruption. But the second puts the lives of 265 million Americans at risk; and that, Mr. Speaker, is the biggest crime of all.

□ 1030

QUESTIONS REMAIN UNANSWERED BY LORAL SPACE AND COMMUNICATIONS

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, I have here in my hand a copy of a two-page statement released by the Loral Space and Communications Group in response to recent allegations that, after large contributions to the Democrat party, Loral aided the communist Chinese government with the development of the ''Long March'' missile, jeopardizing the security of the United States.

As always, the scandal is not what is in the statement but what is left out, what Loral is not telling us. If Loral is correct that no sensitive information and no significant technology was conveyed to the Chinese, why then did the State Department and the Defense Department oppose the administration's granting of a waiver?

Did Loral violate its own policy by providing a report to the Communist Chinese before consulting with the State Department? Was not Loral specifically advised by the U.S. Government not to go forward with their review of the Chinese investigation of the ''Long March'' missile failure?

I assume Loral's claim of innocence is correct, but questions remain unanswered. That is why I ask all Members of Congress who care about our national security to join in an effort to find out the answers to these questions.

TRANSFERRING MISSILE TECHNOLOGY TO CHINA IS WRONG

(Mr. NORWOOD asked and was given permission to address the House for 1 minute.)

Mr. NORWOOD. Mr. Speaker, the national security of the United States has been damaged, in my opinion, by the action of Hughes Electronic Corporation and Loral Space and Communications. They have transferred sensitive missile technology to the Chinese in violation of our laws.

The President of the United States is supposed to protect and defend the interest of the United States. But it seems that when it comes to our foreign policies and trade policies, this administration's attitude is that it has been elected to defend the interests of multinational companies who promise big campaign contributions.

Instead of pursuing legal actions against these companies, our President has, instead, tried to help them cover their tracks on this issue. He needs to be more concerned about the national security of the United States than he is with the security of a friend who happens to raise a lot of campaign contributions for the President's party.

I do not know if there is a quid pro quo. I do not care. I do not know if $100,000 is involved or not, but it is wrong to transfer missile technology to China.

HOPING REPUBLICANS STAND FIRM FOR CAMPAIGN FINANCE REFORM

(Mr. FORD asked and was given permission to address the House for 1 minute.)

Mr. FORD. Mr. Speaker, many of my colleagues this morning have raised very serious issues regarding the transfer of technology to China as well as Chinese donations. I would simply say the President as well as this administration is welcoming an investigation into whether or not any of these donations were improper and whether or not the transfer of this technology was improper.

But I would say to my colleagues who were so indignant and filled with horror this morning that as we prepare to debate campaign finance, I hope that they bring the same degree of passion and the same degree of integrity and certainly, the same degree of energy to that discussion.

We have an opportunity to ban soft money which, in many ways, would help us correct many of the ills and the pariahs that affect this great system, this great democracy of ours. Twenty States in this Nation have already done so.

If Shays-Meehan comes to the floor, I would hope that my dear friend the majority whip, the gentleman from Texas (Mr. DELAY), despite what Roll Call and all of the other newspapers in town have said, that he, in fact, will refrain.

I hope that the leadership on the Republican side as well as those on the Democratic side will stand firm for reform, will stand firm against the gentleman from Texas (Mr. DELAY) and those in the Republican leadership who seem adamantly opposed to campaign finance.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 441 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 441

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for further consideration of the bill (H.R. 3616) to authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1999, and for other purposes. No further general debate shall be in order. The bill shall be considered for amendment under the five-minute rule.

SEC. 2. (a) It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on National Security now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived.

(b) No amendment to the committee amendment in the nature of a substitute shall be in order except the amendments printed in the report of the Committee on Rules accompanying this resolution and amendments en bloc described in section 3 of this resolution.

(c) Except as specified in section 5 of this resolution, each amendment printed in the report of the Committee on Rules shall be considered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. Unless otherwise specified in the report, each amendment printed in the report shall be debatable for 10 minutes equally divided and controlled by the proponent and an opponent and shall not be subject to amendment (except that the chairman and ranking minority member of the Committee on National Security each may offer one pro forma amendment for the purpose of further debate on any pending amendment).

(d) All points of order against amendments printed in the report of the Committee on Rules or amendments en bloc described in section 3 of this resolution are waived.

(e)(1) Consideration of the amendments in part A of the report of the Committee on Rules shall begin with an additional period of general debate, which shall be confined to the subject of the policy of the United States with respect to the People's Republic of China and shall not exceed two hours equally divided and controlled by the chairman and ranking minority member of the Committee on National Security.

(2) Consideration of the amendments in part C of the report of the Committee on Rules shall begin with an additional period of general debate, which shall be confined to the subject of the assignment of members of the armed forces to assist in border control and shall not exceed 30 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on National Security.

SEC. 3. It shall be in order at any time for the chairman of the Committee on National Security or his designee to offer amendments en bloc consisting of amendments printed in part D of the report of the Committee on Rules not earlier disposed of germane modifications of any such amendment. Amendments en bloc offered pursuant to this section shall be considered as read (except that modifications shall be reported), shall be debatable for 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on National Security or their designees, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. For the purpose of inclusion in such amendments en bloc, an amendment printed in the form of a motion to strike may be modified to the form of a germane perfecting amendment to the text originally proposed to be stricken. The original proponent of an amendment included in such amendments en bloc may insert a statement in the Congressional Record immediately before the disposition of the amendments en bloc.

SEC. 4. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendments; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes.

SEC. 5. The chairman of the Committee of the Whole may recognize for consideration of any amendment printed in the report of the Committee on Rules out of the order printed, but not sooner than one hour after the chairman of the Committee on National Security or a designee announces from the floor a request to that effect.

SEC. 6. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. SHAW). The gentleman from New York (Mr. SOLOMON) is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for the purposes of debate only, I yield 30 minutes to the gentleman from Texas (Mr. FROST), a very strong supporter of our military, pending which I would yield myself such time as I might consume. Mr. Speaker, during consideration of

this resolution, all time yielded is for debate purposes only.

Mr. Speaker, this resolution provides for further consideration of H.R. 3616, the National Defense Authorization Act For Fiscal Year 1999, under a structured rule. It is one of the most important bills that comes before this House every year because it provides for funding for our military and for our national defense and our strategic interests around the world.

The rule provides that no further general debate shall be in order since we completed that last night.

As you know, Mr. Speaker, this rule provides for consideration of the committee amendment in the nature of a substitute now printed in the bill and as an original bill for the purposes of amendment which shall be considered as read.

The rule waives all points of order against the amendment in the nature of a substitute. Mr. Speaker, as is typical for this bill, the rule makes in order only those amendments printed in the Committee on Rules report and the amendments en bloc described in section 3 of this resolution, which Members all have on their tables before them.

The rule provides that, except as specified in section 5 of this resolution, amendments will be considered only in the order specified in the report. They may be offered only by a Member designated in the report, shall be considered as read, and shall not be subject to a demand for division of the question.

Except as otherwise provided in the report, amendments shall be debatable for 10 minutes equally divided between a proponent and an opponent. Amendments are not amendable. All points of order against the amendments are waived.

The rule also provides for an additional 2 hours of general debate on United States policy towards communist China, which shall precede consideration of the four amendments in part A of the Committee on Rules report that deal with missile technology.

The rule also provides for an additional 30 minutes of general debate on the subject of placing our armed forces on the border, which shall precede the amendment offered by the gentleman from Ohio (Mr. TRAFICANT) and the gentleman from Texas (Mr. REYES) printed in part C of the report.

In addition, this rule allows for extensive debate time on several important and controversial issues. We have set aside special times for these issues, such as abortion at military installations overseas; the global warming treaty; the prospect of a U.N. standing army, which we should oppose with every bit of strength we have; and medical benefits for our military retirees.

The rule authorizes the Chairman of the Committee on National Security or his designee to offer amendments en bloc consisting of amendments in part D of this report. En bloc amendments shall be debatable for 20 minutes each and shall not be subject to amendment.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, this kind of structured rule is typical for the defense authorization bill, as Members well know.

The Committee on Rules has gone to great lengths to ensure this rule has met the concerns of as many Members as possible. Exactly 100 amendments were filed with the committee, and we have made half of them in order. Of the amendments ruled in order, the ratio of amendments by the minority is nearly exactly the same as the ratio of minority amendments filed with the committee.

Thus, I believe this is a fair rule and a rule that deserves the support of all Members of this body so we can get on to the consideration of the important bill.

Mr. Speaker, I want to commend two Members of this body. One is the chairman of the Committee on National Security. He is the gentleman from South Carolina (Mr. SPENCE). Mr. Speaker, the gentleman from South Carolina (Mr. SPENCE) has been here even longer than I have. I have been here for 20 years. But the gentleman is one of the truly outstanding and respected Members of this body. What the gentleman has done for our military preparedness over all those years deserves special commendation.

The gentleman from South Carolina has a counterpart on the Democrat side in the minority, the gentleman from Missouri (Mr. SKELTON). He, too, has been an outstanding and respected Member of the Committee on National Security. I just want to commend both of them for having brought this bill to the floor.

We have increased the dollar request of the President of the United States so that we can at least try to maintain an adequate military. I do not have to tell most of you that we, today, because of the reduced spending on military, we are beginning to go back to the 1970s when our military was in deplorable condition; when, just to dramatize that, if you recall back in 1979 our hostages had been held. American hostages had been held in Teheran and Haran.

President Carter at the time had ordered our military to try to undertake a rescue mission. We had to cannibalize 10 helicopter gunships just to get five that would work. That is how bad our military was in, the condition of it at that time. Do you know that four out of the five of those helicopters, even after we did cannibalize the others to get them to work, failed, and so did that rescue mission. It was a disgrace what was happening to our ability to defend our interests around the world.

□ 1045

In those days as well, because the military personnel who had enlisted and wanted an honorable career in the military, they knew that because of the reduced funding that they did not have a career, that they could not stay in the military, and, consequently they were leaving in droves. This was not only noncommissioned officers that were needed with their technical ability, but commissioned officers as well.

Mr. Speaker, I would say to Members, go to your recruiters back in your districts, and I want you to talk to the Air Force, the Navy, the Army, the Marine Corps, and they will tell you that they are no longer getting the interest of a cross-section of America to serve in our military today, because they are worried they could not have a career there if they were to enlist.

If you look at your applicants to your military academies, I know in my district we used to have over 100 that would apply for the four appointments that I have each year, and today that has drooped from over 100 down to about 25 or 30. That is because they know that they cannot depend on a career in the military.

That is what is happening, and that is why we need to vote on this bill today, because it is certainly a step in the right direction for providing adequate procurement, adequate research and development and adequate pay and benefits and housing for our military personnel.

Again, I want to thank both the gentleman from Missouri (Mr. SKELTON), the ranking member. I was just praising the gentleman before he came on the floor, along with my good friend, the gentleman from South Carolina (Chairman SPENCE).

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today our Nation is strong and free. We owe much of our strength and freedom to the men and women in uniform who have throughout the history of our great country been willing to stand ready to defend our country and our way of life. We should be proud of our military services and the difficult tasks we as a country have asked them to perform for us.

In asking so much of them, the Congress must in turn assure each and every soldier, sailor, airman and marine, from the four-star general to the newest recruit, that the Congress will provide them with the means to carry out their difficult mission.

It is our responsibility, our duty really, to examine the state of our national defenses each year. In doing so, we often find shortcomings in our ability to adequately fund the programs, missions and operations of the military. But it is important to remember that in today's world, Federal dollars are finite, and, given the fiscal restraints that the Congress has imposed upon itself in the budget agreement that has led us to a balanced budget, the Committee on National Security has done an admirable job in balancing the needs and imperatives of our far-flung security forces.

H.R. 3616 keeps the promise of our budget agreement, and, in doing so, strives to fulfill our responsibilities to the armed services. To be sure, there is not enough money to do everything we should, but this bill balances the hardware needs of all branches of the military, while, at the same time, trying to assure that the human needs of our military and their families are addressed.

Mr. Speaker, I support H.R. 3616. I am pleased that the Committee on National Security has continued its commitment to the development of the next generation of tactical fighter by providing $1.6 billion in research and development funding for the F–22 Raptor. As we approach the 21st Century, the development of this next-generation fighter will be an increasingly important component in our ability to defend our borders and our troops, no matter where they may be deployed. In addition, the bill contains $595 million for two test F–22s and $190 million for advanced procurement of six low-rate initial production aircraft in fiscal year 2000.

The Committee on National Security has continued to show its strong commitment to the production of the V–22 Osprey tiltroter aircraft, a medium lift capability aircraft specifically designed for Marine Corps and Special Operations Forces assaults.

H.R. 3616 provides $735 million for the production of eight aircraft in fiscal year 1999, and an additional $54 million for advanced procurement. The committee has also endorsed an increase of production to 30 aircraft per year by the year 2004, which is also supported by the findings of the recent Quadrennial Defense Review.

In addition, Mr. Speaker, the Committee on National Security has signalled its ongoing support for the B–2 Stealth Bomber program by providing $276 million for B–2 post-production support. These funds will enhance the operational effectiveness of the current B–2 fleet, while both the Defense Department and the Congress examine the needs of the Air Force in a long-term bomber force structure plan. The Committee on National Security has wisely included a provision in this bill which directs the Secretary of the Air Force to prepare such a long-range plan and submit it to Congress by next March 1st.

Mr. Speaker, the Committee on Rules has reported a rule which makes in order a wide variety of amendments to this vital legislation. Those amendments range from transfers of missile-related technologies to foreign governments, including China, to using military forces to patrol our borders, to capping U.S. contributions to NATO expansion.

However, the committee chose not to make in order a very significant amendment to a controversial section of the reported Committee on National Security bill. As Members know, last year's defense authorization created a Federal advisory committee on gender integrated training, now commonly known as the Kassebaum-Baker panel.

In March, former Senator Kassebaum-Baker's panel reported recommendations that all basic training and housing be segregated by gender. The committee bill adopts this recommendation by requiring each of the military services to assign male and female recruits to separate units during basic training, and further requires each of the services to house male and female recruits in separate buildings beginning on April 15th of next year.

While the bill does provide for some waiver of this last requirement because of facility limitations at certain installations, this requirement sets in motion a procedure which will drastically change basic training for all recruits in the Army, Navy and Air Force. The Marine Corps, of course, is currently the only branch of the service which currently separates male and female recruits during basic training.

Mr. Speaker, the branch chiefs of the Army, Navy and Air Force have indicated they do not support the recommendations of the Kassebaum-Baker panel. In spite of their opposition to these recommendations, the Committee on Rules did not provide the opportunity to fully debate this issue. An amendment was proposed by the gentlewoman from New York (Mrs. MALONEY) which would have stricken these provisions from the bill, but, because the Committee on Rules did not make it in order, the House has been denied the opportunity to examine this issue. This is a major shortcoming of this rule, Mr. Speaker.

The committee did not make in order several other worthy amendments offered by Democratic Members. But in spite of the fact the House will not be able to debate these worthy issues, I will support the rule. I support it because it is necessary to move this authorization through the legislative process.

We may do little else of great value in the 105th Congress, but, at the very least, we should assure the passage of legislation which serves the needs of our military and the interests of our national security.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina (Mr. SPENCE), the gentleman I was heaping praise on a few minutes ago, the chairman of the Committee on National Security.

Mr. SPENCE. Mr. Speaker, I take this time really to return the compliment. The gentleman from New York (Mr. SOLOMON) has been one of the biggest defenders of our military in this Congress.

Mr. Speaker, I have been here for 28 years. I have seen a lot of people come and go. In the administrations over the years and in Congress, we have never had a person who is a bigger defender of our military than the gentleman from New York (JERRY SOLOMON). He has made it possible for us to do a lot of things we could not have done otherwise in trying to revitalize our military, which needs very badly to be revitalized.

I want to personally thank the gentleman for all the help he has been to me and our committee as chairman of the Committee on Rules in helping us overall these years.

Mr. FROST. Mr. Speaker, I yield five minutes to the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Speaker, I am going to ask my colleagues to defeat the previous question so that this body may vote on something I think is very important, and that is a measure that would require all Department of Defense employees to be subject to random drug testing.

Mr. Speaker, I have been to Latin America on a number of occasion. Most recently in February I went to Colombia, to towns like Neiva, to San Jose, where American special forces are training Colombian Lanceros in what is a very real war on drugs.

The unit that we visited one week was annihilated the next. Out of 125 Colombian soldiers that went out, 18 returned. The rest were killed or captured.

When you go to Colombia, you do not drive around, you have to fly. The reason you have to fly from place to place is that the guerrillas control the countryside. So everywhere we went was either on a Colombian National Police Huey, or a Drug Enforcement Agency plane. That is how real the war on drugs is.

But we have a tremendous disconnect in our country. You see, we are asking American soldiers as we speak to get shot at. We are asking the Americans who fly the crop dusters that are trying to eradicate the coca fields and the poppy fields that are being shot at, and they are shot down periodically. We have American soldiers in Iquitos, Peru, and American sailors, American Seals, training the Peruvians in riverine operations, mostly on drugs coming out of Colombia by way of the Amazon.

But this body will not even ask the technicians and the people who work for our Department of Defense, who are paid by our tax dollars, to take a drug test to see if they are on our team or on their team.

I offered this amendment for two years in a row. Last year the Committee on Rules, in what I thought was a particularly cowardly action, did not even vote on it. This year they voted it down in a straight party line vote.

So every Republican who goes home and tells you he is tough on drugs, privately we know, in looking at that room in the Committee on Rules, voted against it.

All I am asking for is 15 minutes worth of debate on each side and a vote, up or down. Until I get it, I will

continue to ask for motions to adjourn before this House.

So I think the Committee on Rules and my fellow Members can make a choice: We can vote on it today, or we can vote on it Sunday, but we will vote on this. Because I do not think people who work for our Nation ought to take their Federal paycheck and buy drugs with it. I think we ought to have the confidence that those people who are working on our war on drugs are on our team.

I do not think it is asking a lot for the ranking Democrat on the Subcommittee on Personnel of the House Committee on National Security to have an amendment made in order that deals with the personnel who work for our Department of Defense.

So, Mr. Speaker, at the proper time I would hope that our ranking member, the gentleman from Texas (Mr. FROST) would recognize me for a motion to defeat the previous question. But also I want to assure my colleagues that if the previous question is not defeated and if this amendment is not made in order, we in all probability will be here Saturday or Sunday. I have already canceled my plans. So the question for my fellow Members is, do you want to cancel yours?

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I sort of hesitate to get up to respond to my good friend, the gentleman from Mississippi (Mr. TAYLOR). I guess I have a reputation of having a short temper sometimes, and I do not want to do that because he is a respected Member of this body.

I just want, first of all, to let it be known that in my 20 years here in this body I have offered literally dozens of amendments dealing with the war on drugs, including random drug testing and mandatory drug testing of Federal employees throughout this government.

When Ronald Reagan took office, he was somewhat of a libertarian, and he was not sold on the idea of random drug testing in our military. But we did a study at that time and we found out that back in the mid-eighties, the early eighties, that 25 percent of our military personnel admitted to using drugs of some kind. Twenty-five percent. When you look at that, you said how could they be effective if, God forbid, they had to go into battle and jeopardize the other 75 percent? So Ronald Reagan agreed by executive order to implement random drug testing of every single one of our military. That meant every buck private, right up to every general.

Do you know what happened over the succeeding four years? Just the threat of the random drug testing dropped the use of drugs by our military personnel from 25 percent down to 4 percent. Four percent. Can you imagine that? And they became much more effective.

Would it not be great if we could implement that throughout the entire Federal Government, as the gentleman from Mississippi (Mr. TAYLOR) wants to do with the civilian personnel in the military? Would it not be great if we could do it with all the Department of Transportation and the IRS and everybody else? Then would it not be great if we could do it with State governments, if State governments would implement the same kind of random drug testing, and if local governments, the counties and towns and cities and villages would do the same thing?

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Then, would it not be great if our Fortune 500 companies, most of which now do random drug tests on their employees as a condition of employment, would that not be great? Think what would happen if we reduced the use of drugs by 80 percent of the American people. That would knock the price right out from under it, but we would have no more problem with drugs coming into this country, because there would not be any value to them because there would be so few users.

When we look at the Rand study not too many years ago, there were 2 startling things in there that I just was shocked to see, and one was that 75 percent of all of the crime against women and children in America today is drug-related. Think what that would do if we reduced the use of drugs by 80 percent throughout this country by American citizens.

Then, what was even more shocking was, and I represent an area of middle class America in the Hudson Valley, the Catskills on one end, the Adirondacks on the other, but I was shocked to find out that some of my constituents, 75 percent of the illegal drug use in America today, was used by recreational weekend drug users; in other words, people, middle class or upper middle class who were driving into the cities, buying marijuana, buying cocaine and then using it recreationally on the weekend thinking that it was not going to be any problem. I said, my God, if we could drug test all of those people, the threat of losing their jobs, they would stop using these recreational drugs on the weekend.

So I would say to the gentleman, I support his amendment. We were going to wait until mid-June, when the gentleman from Texas (Mr. BARTON) and myself would bring to this floor a resolution that would change the Rules of the House and it would then begin to random drug test every single Member of this body; that means me and every other Member. Then, in addition, we would drug test all employees as a condition of employment.

Now, of course, I am told that that is probably unconstitutional and so is the testing of Members. Nevertheless, the resolution we will bring to this floor will random drug test every Member, it will random drug test every employee of the House. There are thousands of them, when we take into consideration all of the branches of our House of Representatives. We would then test all new hires, in other words, who had suspicion, in other words, of drugs. We would then random drug test all of the security and public safety, and then finally, we would test any House employee who has access to the floor of this body.

Now, if my colleagues notice, I have gone from the severest to the least, and in this bill we will have a separation clause that says that any one of these, if testing Members is unconstitutional, then the other 5 classes stand. If testing all employees as a condition of employment, if that is found unconstitutional, then the other 3 stand.

Now, that is what we are going to bring on the floor along with a lot of other legislation.

Mr. TAYLOR of Mississippi. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Mississippi.

Mr. TAYLOR of Mississippi. Mr. Speaker, I would say to the gentleman, I am going to vote for what the gentleman is trying to do later, but this is today. I am sure when we left last fall, Sonny Bono thought he would be here this spring, but he is not, and I regret that.

We are given an opportunity today on a bill that we know the Senate has to vote on. This is the defense authorization bill for the Nation, and without it, no ships, no planes, no helicopters, the troops do not get a pay raise, nothing happens in the Department of Defense unless this bill becomes law.

On the contrary, what the gentleman from New York is talking about the Senate never has to vote on, and anyone who follows Washington knows that more often than not, anything controversial, they simply choose not to vote on it.

So I would say to the gentleman, I would hope, if he is gentleman enough to listen, I would hope since the gentleman is in agreement with what I am trying to do for this portion of the government that he would accept my efforts along the lines of the previous question, and we will know for certainty, for at least this portion, for the most important thing our Nation does, which is to defend the Nation, that we will have random drug testing for all Department of Defense employees.

Mr. SOLOMON. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Speaker, I am not exactly clear. A moment ago I heard the gentleman from New York (Mr. SOLOMON) say he would support the gentleman's amendment. By country interpretation, from a country lawyer in Missouri, that means that it will be made in order; is that correct?

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I would say to the gentleman that he is one of

the men that I most respect in this body, and the gentleman is not just a country lawyer, the gentleman is one of the most astute Members of this body.

If the gentleman would like to have the Taylor amendment made in order.

Mr. SKELTON. I would, Mr. Speaker.

Mr. SOLOMON. Mr. Speaker, we have a very delicate balance of the number of Republican and Democrat amendments that were made in order; we tried to maintain that balance.

At the appropriate time, if the gentleman is asking me to make an exception and make the Taylor amendment in order.

Mr. SKELTON. Yes, Mr. Speaker.

Mr. SOLOMON. I would, during this debate, I would ask unanimous consent at the appropriate time to make the Taylor amendment in order, and also to make then a Terry Everett of Alabama amendment in order, modified, and that will sort of keep, I guess, our balance in shape. Would that be all right with the gentleman?

Mr. SKELTON. Yes, Mr. Speaker. I thank the gentleman so much for his courtesy.

Mr. SOLOMON. Mr. Speaker, at the appropriate time, I would make the unanimous consent statement.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, Members should not think that there will not be a vote now on the previous question, because I have no choice but to emulate my colleague, the gentleman from Mississippi (Mr. TAYLOR). The gentleman threatened to vote on the previous question and he got his amendment made in order. I have some amendments I would like made in order and I do not want to be open to the inference that I am less committed to mine than he to his, so I now will announce that I will be moving for a rollcall on the previous question.

The rule is a disgrace. I understand the desire of the Republican leadership to make something out of the China issue. It ought to be fully debated, but it should not come at the expense of this House debating some of the most important public policy questions we face. Bosnia, and I did not know that the principle was equal Democrat and Republican amendments. That seems to be rather an odd way to make public policy, but I do not threaten that, because the amendments I want made in order are totally bipartisan.

I have an amendment sponsored by myself and the gentleman from Connecticut (Mr. SHAYS) to put a freeze on defense spending. That was not made in order. Let us be very clear. Defense spending represents a large chunk of what we have said we will spend. Not a single amendment is made in order that would reduce the budget.

This House will not be given a chance to vote on whether or not the budget ought to be reduced. That is simply a degradation of the democratic process and inappropriate. Members may want to vote to keep this spending level up, particularly since we are in a zero sub situation, and Members who have talked about how committed they are to spending for the elderly and for the environment and for housing and for crime control will be diminishing our ability to do that if they vote for this bill. Not to allow even a chance to vote on a freeze seems to me wholly disrespectful of the democratic process.

Similarly, Bosnia. I do not know how often I have heard Members on the other side complain about Bosnia and the troops in Bosnia. Why, then, does the Republican leadership refuse to allow this House to vote on an amendment sponsored by 3 Democrats and 3 Republicans to compel withdrawal of the troops from Bosnia by December 31?

According to the administration, it costs us $2 billion a year incrementally to keep the troops in Bosnia. These amendments go together. We could cut out the troops in Bosnia and save money. We could cut out the American troops and let the Europeans do what they ought to do and use that money for other purposes. It simply does not wash for Members on the other side to say, the President has unilaterally overcommitted us. The President has overextended us; we wish the troops were not in Bosnia, and then frustrate an effort to let the membership vote. What possible justification can there be for not letting this membership vote on a bipartisan amendment as to whether or not the troops stay in Bosnia?

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, the gentleman was critical of my trying to have a fair balance of amendments, and let me just say to my good friend, and he is a good friend, that I served for 16 years in the minority. For many years we felt that we were being discriminated against by the majority, and the gentleman knows I have done everything in my power as the chairman of the Committee on Rules to try to be as fair as possible.

Mr. FRANK of Massachusetts. Mr. Speaker, reclaiming my time, I understand that; the gentleman has done what was in his power and my criticism is not aimed at the gentleman, but at the Republican leadership, which has somehow decided that, I don't know, it may be that they do not want to detract attention from the China issue, and the China issue deserves full debate, but how can the Republican leadership justify not letting this House vote on whether or not the troops stay in Bosnia?

I will say this: If we vote for the previous question on the rollcall I will ask for and my colleagues vote for this rule and they vote for this bill, they will have refused the option to vote on Bosnia. So I will ask Members, have the intellectual consistency, if they vote down the line to keep us from debating Bosnia, not to complain about the troops being in Bosnia. There ought to be a basic rule that Members are enjoined from complaining about circumstances which they brought about.

So let us now face the choice. A vote for the previous question, a vote for the rule, a vote for the bill, my colleagues will have given their okay to the troops staying in Bosnia ad infinitum. They are going to be pulled out shortly after the dome comes off this building as long as the current policy of the administration is in effect, and I think Europeans ought to be made to step up to the plate.

I will give Members a chance, if they will take it, to vote on whether or not we ought to keep the troops in Bosnia at a $2 billion a year cost. I think that is bad public policy. That is debatable. What is not debatable is that the United States House of Representatives, where many Members have complained about the troops being in Bosnia, cannot even vote on the subject. That ought not to happen. Neither should we have a situation where Members are not allowed even to vote on whether or not we ought to reduce military spending.

So, Mr. Speaker, I hope that Members, particularly those who have talked about the troops in Bosnia being a problem, who vote against the previous question, I will then offer that balanced bipartisan amendment, and we can go forward with our business.

Mr. SOLOMON. Mr. Speaker, could I inquire as to the time remaining on both sides of the aisle.

The SPEAKER pro tempore (Mr. SHAW). Each side has 14 minutes remaining.

Mr. SOLOMON. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

For the record, there were 50 amendments made in order, 15 of those are Democratic amendments, and 35 of those are Republican amendments, not exactly a balance. The chairman of the committee was trying to suggest that there was some sort of an equal division; there was not an equal division of amendments, Mr. Chairman. There were 15 Democratic amendments out of the 50 made in order, if we want to discuss the merits of the individual amendments as to whether they should have been made in order.

Mr. Speaker, I yield 4 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, first I would like to thank the gentleman from South Carolina (Mr. SPENCE), the chairman of the committee, and the gentleman from Missouri (Mr. SKELTON), the ranking member, for allowing one of my amendments to be in order.

This legislation will tighten a loophole in the law regarding military retirement pensions. I was very disappointed to see a soldier who was recently convicted of a felony go unpunished. Certainly, any soldier who has served honorably deserves a full pension, but any soldier who has been demoted due to the commission of a crime should not be entitled to retire based upon the highest rank served.

Unfortunately, this defense authorization bill also includes a provision that no one wants. I am very disappointed in the Committee on Rules for not allowing a vote on gender segregation during basic training in all branches of the Armed Services.

My amendment to strike this language was dismissed by the Committee on Rules. The Army, the Navy, the Air Force have all come out against gender segregation, because they know men and women must train as they fight. Separating them creates an atmosphere of distrust and may affect military readiness. Just as soldiers from diverse ethnic and social backgrounds must learn to become a cohesive group, so must men and women.

Separate and secure quarters are achieved without placing unit members in different buildings. Segregating the sexes will cost the Army $159 million, according to the Department of Defense. Why should we spend this kind of money to create a situation that no one wants?

□ 1115

Secretary Cohen, former chairman of the Joint Chiefs, General Shalikashvili, all came out against separating the sexes.

Sexual misconduct issues are not a result of training policy, but a manifestation of poor leadership. We cannot cure a social problem with a logistical solution. Further isolating women will not solve the problem. If nothing else, it will make the problem worse. It is not an issue of segregation or separation, it is about respect and leadership.

Mr. Speaker, as we speak here on the floor today, men and women are defending our country in all parts of the world. They are fighting together. In some parts of Bosnia they are living together in the same tents. It is being done with respect and leadership.

Segregating men and women in the military amounts to giving women their marching orders back into the dark ages. Women are defending this country. We should defend their right to be treated equally in the military. I urge a vote against the rule on this issue alone, and on the issues raised by the gentleman from Massachusetts (Mr. BARNEY FRANK).

MODIFICATION TO RESOLUTION OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that notwithstanding any other provision of the pending resolution, that the Taylor and the Everett amendments that I have placed at the desk shall be deemed to have been included as the last amendments printed in part D of the report of the Committee on Rules accompanying the resolution.

The SPEAKER pro tempore (Mr. SHAW). The Clerk will report the amendments.

The Clerk read as follows:

Amendment to be offered by Mr. TAYLOR of Mississippi:

At the end of subtitle C of title X (page 227, after line 14), insert the following new section:

SEC. 1023. RANDOM DRUG TESTING OF DEPARTMENT OF DEFENSE EMPLOYEES.

(a) EXPANSION OF EXISTING PROGRAM.—(1) Chapter 81 of title 10, United States Code, is amended by inserting after section 1581 the following new section:

"§ 1582. Random testing of employees for use of illegal drugs

''(a) PROGRAM REQUIRED.—The Secretary of Defense shall expand the drug testing program required for civilian employees of the Department of Defense by Executive Order 12564 (51 Fed. Reg. 32889; September 15, 1986) to include the random testing on a controlled and monitored basis of all such employees for the use of illegal drugs.

''(b) TESTING PROCEDURES AND PERSONNEL ACTIONS.—The requirements of Executive Order 12564 regarding drug testing procedures and the personnel actions to be taken with respect to any employee who is found to use illegal drugs shall apply to the expanded drug testing program required by this section.

''(c) NOTIFICATION TO NEW EMPLOYEES.—The Secretary of Defense shall notify persons employed after the date of the enactment of this section that, as a condition of employment by the Department of Defense, the person may be required to submit to mandatory random drug testing under the expanded drug testing program required by this section.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1581 the following new item:

''1582. Random testing of employees for use of illegal drugs.''.

(b) FUNDING.—No additional funds are authorized to be appropriated on account of the amendment made by subsection (a). The Secretary of Defense shall carry out the expanded drug testing program for civilian employees of the Department of Defense under section 383 of title 10, United States Code, as added by subsection (a), using amounts otherwise provided for the program.

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Amendment to be offered by Mr. EVERETT:

At the end of title XII (page ___, after line ___), insert the following:

SEC. ___. TRANSFER OF EXCESS UH–1 HUEY HELICOPTERS AND AH–1 COBRA HELICOPTERS TO FOREIGN COUNTRIES.

(a) IN GENERAL.—(1) Chapter 153 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2581. Transfer of excess uh–1 huey helicopters and ah–1 cobra helicopters to foreign countries

''(a) REQUIREMENTS.—The Secretary of Defense shall make all reasonable efforts to ensure that any excess UH–1 Huey helicopter or AH–1 Cobra helicopter that is to be transferred on a grant or sales basis to a foreign country for the purpose of flight operations for such country shall meet the following requirements:

''(1) Prior to such transfer, the helicopter receives, to the extent necessary, maintenance and repair equivalent to the depot-level maintenance and repair, as defined in section 2460 of this title, that such helicopter would need were the helicopter to remain in operational use with the armed forces of the United States.

''(2) Maintenance and repair described in paragraph (1) is performed in the United States.

''(b) EXCEPTION.—The requirements of subsection (a) shall not apply with respect to salvage helicopters provided to the foreign country solely as a source for spare parts.''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''2581. Transfer of excess uh–1 huey helicopters and ah–1 cobra helicopters to foreign countries.''.

(b) EFFECTIVE DATE.—Section 2581 of title 10, United States Code, as added by subsection (a), shall apply with respect to the transfer of a UH–1 Huey helicopter or AH–1 Cobra helicopter on or after the date of the enactment of this Act.

Mr. SOLOMON (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from New York?

There was no objection.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Sanibel, Florida (Mr. PORTER GOSS), a very important member of the Committee on Rules.

Mr. GOSS. Mr. Speaker, I thank the gentleman from Glens Falls, New York, for yielding me the time.

Mr. Speaker, there is a lot I would like to say about this rule. It is a good rule and deserves Member support. It was carefully crafted. There were many amendments. It is balanced, it is fair, and I urge everybody's support.

The reason I am here with what is left of my voice today is to pay some testimony to the very fine work of the gentleman from South Carolina (Chairman SPENCE) and ranking member, the gentleman from Missouri (Mr. IKE SKELTON).

The gentleman from Missouri (Mr. SKELTON) is the crossover Member on the Permanent Select Committee on Intelligence, and we have, as everybody knows, on defense authorization close cooperation and coordination with the Committee on National Security.

Things would not work as smoothly as they have without the gentleman from Missouri (Mr. SKELTON), and I personally and publicly wanted to thank him, the gentleman from South Carolina (Chairman SPENCE), and the staffs of both committees that who have worked so hard to make sure we have come up with a good product.

I, too, think we have underfunded, but we are doing the best with what we have. I urge support for the rule.

Mr. Speaker, I rise in strong support of H.R. 3616, the Department of Defense Authorization Bill for 1999.

Mr. Speaker, I wish to congratulate my friends Chairman SPENCE and the Ranking Member Mr. SKELTON on delivering the House a sound, bipartisan defense bill that I think all the Members of this body can, and should, vote for. After 14 years of steady decline in the defense budget, they were again handed a request by the Administration that clearly asks our men and women in the Armed Forces to do ''more with less.'' Mr. SPENCE and Mr. SKELTON's efforts, and indeed the outstanding efforts by all members of the National Security Committee, have allowed for the careful crafting of a bill that manages increasing world-wide risk in an era of shrinking forces and budgets. This is no easy task.

Mr. Speaker, as the Members of this body know, the dollars for the Intelligence Budget Authorization that we here in the House passed on the 7th of May—on a voice vote—are contained in this defense authorization. I can tell you that the close coordination between the National Security Committee and the Permanent Select Committee on Intelligence—on which, I might add, the distinguished Member from Missouri, Mr. SKELTON, plays a tremendously valuable role as a crossover member—allowed us to put together a prudent defense intelligence input to this authorization bill. Together, this bill and the intelligence bill focus on the needs of our Nation. H.R. 3616 increases spending on equipment modernization, it increases the funding for National Guard and Reserve modernization not funded in the President's request, it addresses a balanced quality of life investment for our military personnel, and it improves readiness.

But, Mr. Speaker, this does not mean we are looking at a ''fat'' bill. While the funding in this bill is consistent with the Balanced Budget Act of 1997, it should be pointed out that the President's defense request—according to the military service chiefs—is under-funded by more than 10 billion dollars. I wish we were spending more on our national security—on our military and our intelligence services. Not seeing the will at this point in the Administration to make this critically important—even if politically difficult—call, I believe H.R. 3616 does what can be done to limit the further ''hollowing'' out of our defenses. I urge my colleagues to vote yes on H.R. 3616.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentlewoman from the District of Columbia (Ms. Norton).

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I come to the floor, at the very least in disbelief, and at most with a sense of outrage, because this bill contains a provision that is so serious and such a departure that at the very least, any responsible legislative body would have wanted it debated.

The gentlewoman from New York (Mrs. CAROLYN MALONEY) and I went to the Committee on Rules yesterday to ask that an amendment to remove a provision of the bill and at least postpone the resegregation of basic training throughout the armed services be made in order. Our amendment would simply have stopped congressional action to segregate the armed services pending the receipt of the report of the Commission on Military Training and Gender-Related Issues, whose members were just appointed in February. This commission has been authorized by this body to study the very issues this body is due to vote on as part of this bill today.

The gentlewoman from Florida (Mrs. FOWLER) and the gentlewoman from California (Ms. HARMAN) asked for a similar amendment. The resegregation now in the bill represents a major structural setback for the services and for women that the Department of Defense and the services strongly oppose.

Yet, we learned this morning that neither the Fowler-Harman nor the Maloney-Norton amendment has been made in order. I am here this morning to announce that the Bipartisan Women's Caucus of this House is not going to take the failure to allow us to even debate this bill sitting down or standing up.

The position I am articulating is the position of the Republican and the Democratic Members who are women of the House of Representatives. It is the position of 55 women strong in this House. I am going to leave this floor and go with the gentlewoman from New York (Mrs. MALONEY) and other women and men of this body to the tarmac in just a moment, where we will be holding a press conference.

Among the participants will be Evelyn Foote, the Brigadier General, U.S. Army Retired, who is Vice-Chair of the Secretary of the Army Senior Review Panel Report on Sexual Harassment. Also with us will be Holly Hempfield, the 1996 chair of the Department of Defense Advisory Committee on Women in the Services. Both of these women who carry the views of the armed services are with the 55 women of the House of Representatives, saying if you want to set us back, at least hear us out first, do not silence us.

Moreover, we speak for the women of the military, and we are sure that we speak for the women and the men of the military. The Department of Defense Advisory Committee on Women in the Services, appointed by the Secretary of Defense, met with 1,200 trainees and trainers in a random sample to find what the troops believe about men and women serving together in basic training.

They found the overwhelming sentiment of our troops to be that men and women who fight together must train together. This train-as-you-fight strategy ensures combat readiness goals are met. We are here to make clear that the women of the Congress will never retreat on this issue.

Mr. FROST. Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again, the gentlewoman from the District of Columbia (Ms. NORTON), who is a woman I deeply respect, and she always speaks her mind, and she does so eloquently, but I would just say to her that for those of us who have served in the military, we have to remember that most of the basic training, the men and women that go through basic training today, are identical to those who went through 10 years ago, 20 years ago, 30 or 40 years ago. They are of ages of 18, 19, 20 years old.

When we look at some of the situations that have occurred in other branches of the service besides the Marine Corps, when we mix young men and women together at that age, many of whom have gone away from home for the first time, we are going to have severe problems.

In the Marine Corps we have managed to train them separately and we have not had any instances that have taken place, and I just hope the gentlewoman understands and respects others' views on this. It is a question of trying to make sure that the young men and women that are going to be serving in our military have adequate training, and later on after they are out of boot camp, they are out of basic training, certainly they can work together, as long as it is not in a combat situation.

There are those of us that are absolutely opposed to women serving in combat. It is just a matter of principle with us. God forbid that women are taken prisoner of war. Situations occur that would not occur to a male, and I just could not do that to my daughters or my granddaughters, so I just hope she understands that there is sincerity on both sides of the aisle on the issue.

Ms. NORTON. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentlewoman from the District of Columbia.

Ms. NORTON. Mr. Speaker, I do understand, and I have the most profound respect for the gentleman from New York (Mr. Solomon). I understand the feelings of the gentleman from New York, for whom I have the most profound respect. He served in the armed services when integrated services was unthinkable.

I do want to say only to the gentleman that I know he did not mean to say that the kinds of abuses and sexual harassment which have in fact come forward are anything like representative situations. I do not believe we should step back a giant step because of a few instances of abuse.

I think, on the contrary, that we ought to congratulate the troops for the way in which gender integration has succeeded, and may I say to the gentleman, I was surprised, particularly because I believe he has the votes, that we were not granted the right even to debate this matter for a limited period of time. That is all we asked.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. SISISKY).

Mr. SISISKY. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I would tell my good friend, the chairman of the Committee on Rules, I was surprised that the Fowler amendment was not in there

today. We had a very close vote in the committee. Also, I further want to advise, the problem that we first had in the sexual problems was not in basic training. Aberdeen was advanced training.

Let me just tell the Members this. My problem, and I said it right in the committee, I do not know enough what is right and wrong now. It should not be up to me to decide. I called every chief of the service the morning of the vote, and every one of them, every one of them, said we want to integrate the training in basic training, with the exception of the Marine Corps.

I said fine. If the Marine Corps wants to do it differently, let them do it differently. If the Navy wants to do it differently, let them do it. We should not impose ourselves on that. This is a very important issue, I would tell the chairman. I am going to vote for the rule, because I am anxious to get this thing going, but I must say, I am very disappointed that this amendment was not in there.

Mr. SOLOMON. Mr. Speaker, I am glad to yield 3 minutes to the very distinguished gentlewoman from Jacksonville, Florida (Mrs. FOWLER), a member of the committee.

Mrs. FOWLER. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise to express my appreciation to the Committee on Rules, first for making one of my amendments in order, and my disappointment that the other was not. I believe, as I walked in, I think the gentleman from Virginia (Mr. SISISKY) must have been talking to this issue, also.

But with my colleague, the gentlewoman from California (Ms. JANE HARMAN), I have put forward an amendment in the committee to retain current policies regarding integration of male and female soldiers, sailors and airmen at the unit level during basic training. Unfortunately, this amendment was not made in order under this rule.

Our amendment would have stricken section 521 of the bill, which requires gender segregation at the small unit level throughout basic training, and the housing of male and female recruits in separate barracks.

Instead, our amendment would have required the Congressional Commission on Military Training and Gender-Related Issues, which this Congress established only last year at a cost of $2.2 million, to specifically study the recommendations of the Kassebaum-Baker Commission before any action on this matter could proceed.

While I have the highest regard for my good friends, Senators Kassebaum and Baker, the methodology that was employed by that panel has been criticized by the GAO. The Fowler-Harman amendment also would have promoted privacy by gender in living spaces to the maximum extent practicable, without a specific requirement to separate by barracks.

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I would note that the Army, Navy and Air Force chiefs oppose section 521 on the grounds that it removes their discretion for training as they fight. I would note that according to General Lezy, the Deputy Assistant Secretary of Defense for Military Personnel Policy, section 521 would require the Army to spend $159 million in fiscal year 2000 to build new barracks to segregate its recruits. The Army has not budgeted for this requirement. When 64 percent of the Department of Defense family housing is unsuitable, I believe there are better ways to spend this money.

Mr. Speaker, the commission appointed by Congress will use objective standards to evaluate the value of gender-integrated or segregated basic training and report to us. We ought not prejudge their findings. I will be working in conference to eliminate section 521, and would appreciate the support of many of my colleagues in this regard.

I do support the rule on this bill. This is an extremely important bill to the defense of our country. There are many other issues than this one in this bill. This is a good rule overall. It is a good bill. It is greatly needed for our young men and women that are serving in the armed services of our country. I urge all of my colleagues to support the rule and then to support the bill later today.

Mr. SOLOMON. Mr. Speaker, I yield 4 minutes to the very distinguished gentleman from San Diego, California (Mr. HUNTER), a stalwart advocate of our Nation's military.

Mr. HUNTER. Mr. Speaker, I thank the chairman of the Committee on Rules for yielding this time.

Mr. Speaker, let me say he has gotten beaten up a little bit over this rule. Let me tell Members something that the chairman did insist on that was very important from a national security standpoint. That is that he has allowed and the committee has allowed, and should be commended for letting us put in four amendments that have to do with the transfer of satellite technology, which is at this point a very critical issue for national security.

Most people now know that China has been launching American satellites with their Long March rockets, which are essentially the same rockets that are aimed with nuclear-tipped warheads at cities in the United States. We have an interest, obviously, in not accuratizing those missiles or making them more reliable. Unfortunately, after a failed launch in 1996, it has been alleged that Loral and Hughes, two of our satellite companies, engaged with the Chinese scientists after one of the satellites had gone down, and it was a $200 million package, engaged with the Chinese scientists and engineers and showed them what they were doing wrong with respect to these Long March rockets, which have nuclear-tipped missiles which are aimed at the United States.

The Department of Defense issued a statement that said American security interests have been harmed. That is the Department of Defense for the Clinton administration, very serious statement. It is clear that our policy with respect to transferring satellite technology to China has been detrimental to the United States. There may have been criminal activities, and we need to further explore this issue. But today we have several amendments that have been allowed.

The gentleman from South Carolina (Mr. SPENCE) and the gentleman from New York (Mr. GILMAN) have an amendment that expresses the sense of Congress that business interests must not be placed over United States security interests and that the United States should not agree to a variety of initiatives at the upcoming presidential summit in China, including support for Chinese membership in the missile technology control regime, a blanket waiver of Tiananmen Square sanctions, an increase in space launches from China, agreeing to unverifiable arms control initiatives, increasing the level of military to military contacts, and entering any new agreements involving space or missile related technology.

Essentially we are saying, you fouled this thing up, you have given away American security interests. We are putting the brakes on until we can sort this thing out. It is an excellent amendment by the gentleman from South Carolina (Mr. SPENCE) and the gentleman from New York (Mr. GILMAN).

The gentleman from Nebraska (Mr. BEREUTER) has an amendment that would prohibit U.S. participation in any post-launch failure investigation involving the launch of a U.S. satellite from China. Somebody mentioned that Loral and Hughes were kind of like the engineer who was sentenced to the guillotine by Khomeini, and after the guillotine had failed to work on several other people who would have been executed and they were allowed to go free, the engineer, the American engineer laid under the guillotine and said, I think I see your problem.

At any rate, the Bereuter amendment would prohibit U.S. participation in any post-launch failure investigation involving the launch of an U.S. satellite. We have the Hefley amendment that would prohibit the export or reexport of any missile equipment or technology to the People's Republic of China. And finally, I have an amendment that would prohibit the export or reexport of U.S. satellites, including commercial satellites and satellite components, to the People's Republic of China.

These are very important amendments. I thank the committee and the chairman for allowing them.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is an important rule. This is an important piece of legislation. I support the rule. I would advise the Chair at this point that there will be a Member on our side who will seek a vote on the previous question. I would ask the Chair to recognize that Member at the appropriate time.

Mr. Speaker, I yield back the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield 1½ minutes to the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Speaker, I came to the floor because I want to ensure that the Members that come to vote on this rule understand what happened in the Committee on National Security with regard to the Kassebaum-Baker panel's recommendations. There are no distortions that are out there.

Nancy Kassebaum's panel were 10 individuals of highly diverse background who made a unanimous decision that was overwhelmingly received favorably across the country. Why? Because it gave common sense solutions. It said, separate by gender in the barracks and at the small unit level, that is flights in the Air Force, divisions in the Navy and by platoon in the Army, but then when they go train, it is integrated training.

There are those that are trying to distort this by calling it segregated training. That is completely false. I want Members to understand this is only separating by barracks. Basically we are saying we do not necessarily think that young men and women ought to be sleeping together and we recognize that we have some collateral problems when that occurs. So when Members come to the floor, I want them to be very clear in understanding what exactly this is.

It is the Nancy Kassebaum language on those two issues. And to make sure that the services across the river do not spin this with regard to the Air Force, this takes the Air Force back to the way they were doing it for over 20 years. They used to separate by flight, by gender, until July of last year. So do not let anybody distort this. I want to be very clear with Members. If they have any questions, contact me and I will be very pleased to explain it to them.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time.

In closing the debate, let me just say that the statement by the gentleman from Indiana (Mr. BUYER) is the exact reason why I took full responsibility for not allowing the Maloney amendment, because if it had come on this floor it would have been a totally political issue and would not have dealt with the merits. I did so after consulting with the administration; this is the Clinton administration. The Clinton administration did not want this issue to come on the floor, nor did they want the Bosnia issue to come on the floor.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr SOLOMON. I will not yield at this time, Mr. Speaker.

They did not want the Iraq issue to come on to the floor.

Mrs. MALONEY of New York. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. Mr. Speaker, we do not interrupt somebody who is closing. They know better than that.

I just wanted to say one last thing, that I also take full responsibility for not allowing any cutting amendments. I have done this for the last several years because I am absolutely outraged to what is happening with our military. We have Members that will come on this floor, they will want to cut a little bit here and a little bit there. Pretty soon we are right back to where we were in 1979.

Mr. Speaker, we cannot allow that to happen. If Members do not like the funding level, if they think it is too much, come over here and vote ''no.'' But if they want to stand up for the young men and women that are serving in our military today, we want to give them the best procurement in weapons we can give them. We want to give them the best training. We want to give them the best benefits in order to let them undertake an honorable career in the military. It is more honorable than any other career in this country, yet many Members in this House do not seem to give a damn anymore.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I will not yield.

I hope that Members will come over to this body and vote for this rule. We have been as fair as we possibly can. We have made a percentage of Democrat amendments in order compared to what they had asked for. The same thing with the Republicans, we shut out many Republicans in order to try to be fair. That is why everyone should come over here and vote for this rule today.

Mr. EVANS. Mr. Speaker, today's rule on the FY99 DOD Authorization Act does not include my amendment which would have barred U.S. special forces training of the Indonesian Military in FY99. I am gravely disappointed that the Rules Committee did not see fit to allow the House to consider this issue at such an important juncture in our nation's policy toward Indonesia.

Today, Indonesia is entrenched in an unprecedented political and economic crisis. Recent reports of student deaths at the hands of Indonesian police opening fire on demonstrations is just one example of the violence and terror that have become routine within the Suharto regime.

This type of repression is just the latest chapter in the Suharto regimes' transgressions against its own people. No where is that more apparent than in the conduct of the Indonesian military. The use of the Indonesian military in the intimidation, torture and murder of both Indonesians and the citizens of East Timor is widespread, documented and undisputed. The brutal massacre of over 270 peaceful demonstrators in an East Timor cemetery by the Indonesian Military at the beginning of this decade led Congress to ban U.S. taxpayer funded IMET training in 1992.

Despite this strong indication by Congress to stop assistance to the Indonesian Military, the Department of Defense continues to provide assistance through the Joint Combined Exchange and Training program. Last September, I wrote Secretary of Defense Cohen requesting detailed information on the training of members of the Kopassus, the elite special forces division of the Indonesian military. The Kopassus is famous for its role as the ruthless ''enforcer'' of Indonesia's occupation of East Timor.

Several months later, I received a response from Deputy Secretary John Hamre, describing the United States' continued training of the Indonesian military under another program—the JCET. While I recognize that Indonesia's participation in the JCET program is in compliance with U.S. law, I do not support any training of the Indonesian military by U.S. armed services. It is clear to me and several of my colleagues that the JCET program is the Pentagon's loophole to the ban on IMET.

The amendment, which I was to offer with Representatives NITA LOWEY, PATRICK KENNEDY and CHRIS SMITH, would have sent a direct message to President Suharto that the flagrant abuse of power, unmitigated repression and complete disregard for fundamental human rights will not be tolerated. Because the moratorium would have lasted only for the fiscal year, it would have allowed Congress to reassess the merits of providing military training to Indonesia next year.

I hope that we can address this problem later in the session, but I still believe it was an opportunity that this Congress should not have missed. This rule abrogates our responsibility to ensure that our national security policy embodies the very democratic principles it seeks to defend. I believe it is unfortunate and does not reflect well on this institution.

Mr. SOLOMON. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. SHAW). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRANK of Massachusetts. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 5 of rule XV, the Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 281, nays 134, not voting 17, as follows:

[Roll No. 165]

YEAS—281

Abercrombie	Baldacci	Barton
Aderholt	Ballenger	Bass
Allen	Barcia	Bereuter
Archer	Barr	Bilbray
Bachus	Barrett (NE)	Bilirakis
Baker	Bartlett	Bishop

Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Clyburn
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Cramer
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (RI)
Kennelly
Kim
King (NY)
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
Markey
Martinez
Mascara
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Minge
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nethercutt
Neumann
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Pascrell
Paul
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Sabo
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wise
Wolf
Young (AK)
Young (FL)

NAYS—134

Ackerman
Baesler
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Blumenauer
Bonior
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Clayton
Condit
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Dixon
Doggett
Dooley
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Green
Gutierrez
Hamilton
Hastings (FL)
Hilliard
Hinojosa
Hooley
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Matsui
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne
Pelosi
Poshard
Price (NC)
Rahall
Rangel
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Serrano
Skaggs
Slaughter
Stark
Stokes
Strickland
Stupak
Tauscher
Thurman
Tierney
Torres
Towns
Velazquez
Vento
Waters
Watt (NC)
Waxman
Wexler
Weygand
Woolsey
Wynn
Yates

NOT VOTING—17

Andrews
Armey
Bateman
Carson
Clay
Crane
Ewing
Gonzalez
Goodling
Greenwood
Harman
Hinchey
Meeks (NY)
Ney
Northup
Paxon
Stabenow

□ 1200

Messrs. RODRIGUEZ, RANGEL, BLUMENAUER, and SKAGGS, and Ms. SANCHEZ, MS. MCKINNEY and Ms. KAPTUR changed their vote from ''yea'' to ''nay.''

Mrs. KENNELLY of Connecticut and Mr. REYES changed their vote from ''nay'' to ''yea.''

□ 1201

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. PETRI). The question is on the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FRANK of Massachusetts. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 304, noes 108, not voting 20, as follows:

[Roll No. 166]

AYES—304

Abercrombie
Aderholt
Allen
Archer
Bachus
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Brady
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Cramer
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Dixon
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Farr
Fawell
Fazio
Foley
Forbes
Ford
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
King (NY)
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
Markey
Martinez
Mascara
McCarthy (MO)
McCarthy (NY)
McCollum
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Mink
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Reyes
Riggs
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Sabo
Salmon
Sanchez
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thornberry
Thune
Tiahrt
Towns
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Waters
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wise
Wolf
Wynn
Young (AK)
Young (FL)

NOES—108

Ackerman
Baesler
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Blumenauer
Bonior
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Condit
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett

Engel	Kucinich	Rangel
Eshoo	LaFalce	Rivers
Etheridge	Lantos	Rodriguez
Evans	Lee	Roybal-Allard
Fattah	Levin	Rush
Filner	Lewis (GA)	Sanders
Frank (MA)	Lofgren	Sawyer
Furse	Lowey	Schumer
Gallegly	Luther	Serrano
Gejdenson	Maloney (NY)	Shays
Gephardt	Matsui	Skaggs
Green	McDermott	Stokes
Gutierrez	McGovern	Strickland
Hamilton	McKinney	Stupak
Hastings (FL)	McNulty	Thompson
Hilliard	Meehan	Thurman
Hinojosa	Miller (CA)	Tierney
Hooley	Minge	Torres
Jackson (IL)	Moakley	Velazquez
Jackson-Lee (TX)	Nadler	Vento
Johnson (WI)	Neal	Watt (NC)
Johnson, E. B.	Oberstar	Waxman
Kaptur	Obey	Wexler
Kennedy (MA)	Olver	Woolsey
Kind (WI)	Owens	Yates
Kleczka	Poshard	
	Rahall	

NOT VOTING—20

Andrews	Ewing	Meeks (NY)
Armey	Gonzalez	Paxon
Bateman	Goodling	Payne
Burr	Harman	Riley
Carson	Hinchey	Stabenow
Clay	Manton	Thomas
Crane	McCrery	

☐ 1212

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. RILEY. Mr. Speaker, due to unavoidable circumstances, I was not present for rollcall vote No. 166. Had I been present, I would have voted ''aye'' in favor of the rule.

The SPEAKER pro tempore (Mr. PETRI). Pursuant to House Resolution 440 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3616.

☐ 1214

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3616) to authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1999, and for other purposes, with Mr. CAMP in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Tuesday, May 19, 1998 pursuant to House Resolution 435, all time for general debate had expired. Pursuant to House Resolution 441, no further general debate is in order.

The committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered read.

The text of the committee amendment in the nature of a substitute is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Defense Authorization Act for Fiscal Year 1999''.

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term ''congressional defense committees'' means—

(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(2) the Committee on National Security and the Committee on Appropriations of the House of Representatives.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 1999 for procurement for the Army as follows:

(1) For aircraft, $1,420,759,000.

(2) For missiles, $1,232,285,000.

(3) For weapons and tracked combat vehicles, $1,507,638,000.

(4) For ammunition, $1,053,455,000.

(5) For other procurement, $3,136,918,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 1999 for procurement for the Navy as follows:

(1) For aircraft, $7,420,847,000.

(2) For weapons, including missiles and torpedoes, $1,192,195,000.

(3) For shipbuilding and conversion, $5,992,361,000.

(4) For other procurement, $3,969,507,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1999 for procurement for the Marine Corps in the amount of $691,868,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for procurement of ammunition for the Navy and the Marine Corps in the amount of $451,968,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 1999 for procurement for the Air Force as follows:

(1) For aircraft, $8,219,077,000.

(2) For missiles, $2,234,668,000.

(3) For ammunition, $383,627,000.

(4) For other procurement, $7,046,372,000.

SEC. 104. DEFENSE-WIDE ACTIVITIES.

Funds are hereby authorized to be appropriated for fiscal year 1999 for Defense-wide procurement in the amount of $1,962,866,000.

SEC. 105. RESERVE COMPONENTS.

Funds are hereby authorized to be appropriated for fiscal year 1999 for procurement of aircraft, vehicles, communications equipment, and other equipment for the reserve components of the Armed Forces as follows:

(1) For the Army National Guard, $50,000,000.

(2) For the Air National Guard, $50,000,000.

(3) For the Army Reserve, $50,000,000.

(4) For the Naval Reserve, $50,000,000.

(5) For the Air Force Reserve, $50,000,000.

(6) For the Marine Corps Reserve, $50,000,000.

SEC. 106. DEFENSE INSPECTOR GENERAL.

Funds are hereby authorized to be appropriated for fiscal year 1999 for procurement for the Inspector General of the Department of Defense in the amount of $1,300,000.

SEC. 107. CHEMICAL DEMILITARIZATION PROGRAM.

There is hereby authorized to be appropriated for fiscal year 1999 the amount of $834,000,000 for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(2) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

SEC. 108. DEFENSE HEALTH PROGRAMS.

Funds are hereby authorized to be appropriated for fiscal year 1999 for the Department

of Defense for procurement for carrying out health care programs, projects, and activities of the Department of Defense in the total amount of $402,387,000.

SEC. 109. DEFENSE EXPORT LOAN GUARANTEE PROGRAM.

Funds are hereby authorized to be appropriated for fiscal year 1999 for the Department of Defense for carrying out the Defense Export Loan Guarantee Program under section 2540 of title 10, United States Code, in the total amount of $1,250,000.

Subtitle B—Army Programs

SEC. 111. MULTIYEAR PROCUREMENT AUTHORITY FOR LONGBOW HELLFIRE MISSILE PROGRAM.

Beginning with the fiscal year 1999 program year, the Secretary of the Army may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear procurement contract for procurement of the AGM–114 Longbow Hellfire missile.

SEC. 112. M1A2 SYSTEM ENHANCEMENT PROGRAM STEP 1 PROGRAM.

Of the funds authorized to be appropriated for the Army in section 101 for weapons and tracked combat vehicles, $20,300,000 shall be available only for the Step 1 program for the M1A2 System Enhancement Program.

Subtitle C—Navy Programs

SEC. 121. MULTIYEAR PROCUREMENT AUTHORITY FOR THE DEPARTMENT OF THE NAVY.

(a) AUTHORITY FOR SPECIFIED NAVY AIRCRAFT PROGRAMS.—Beginning with the fiscal year 1999 program year, the Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear procurement contract for procurement for the following programs:

(1) The AV–8B aircraft program.

(2) The T–45TS aircraft program.

(3) The E–2C aircraft program.

(b) AUTHORITY FOR MARINE CORPS MEDIUM TACTICAL VEHICLE REPLACEMENT.—Beginning with the fiscal year 1999 program year, the Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear procurement contract to procure the Marine Corps Medium Tactical Vehicle Replacement.

Subtitle D—Other Matters

SEC. 141. FUNDING, TRANSFER, AND MANAGEMENT OF THE ASSEMBLED CHEMICAL WEAPONS ASSESSMENT PROGRAM.

(a) FUNDING.—Of the amount authorized to be appropriated in section 107, $12,600,000 shall be available for the Assembled Chemical Weapons Assessment Program (in this section referred to as the ''Program'').

(b) TRANSFER OF PROGRAM RESPONSIBILITY.—(1) The Under Secretary of Defense for Acquisition and Technology and the Secretary of the Army shall jointly submit to Congress, not later than December 1, 1998, a plan for the transfer of oversight of the Program from the Under Secretary to the Secretary.

(2) Oversight of the Program shall be transferred pursuant to the plan submitted under paragraph (1) not later than 60 days after the date of the submission of the notice required under section 152(f)(2) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 214; 50 U.S.C. 1521(f)(2)).

(c) PLAN FOR PILOT PROGRAM.—If the Secretary of Defense proceeds with a pilot program under section 152(f) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 214; 50 U.S.C. 1521(f)), the Secretary shall prepare a plan for the pilot program and shall submit to Congress a report on such plan (including information on the cost of, and schedule for, implementing the pilot program).

(d) MANAGEMENT OF PROGRAM.—The Program shall be managed independently of the baseline incineration program until the pilot program is completed.

(e) DEFINITION.—In this section, the term ''Assembled Chemical Weapons Assessment Program'' means the program established in section 152(e) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 214; 50 U.S.C. 1521), and section 8065 of the Department of Defense Appropriations Act, 1997 (as contained in section 101 of Public Law 104–208; 110 Stat. 3009–101), for identifying and demonstrating alternatives to the baseline incineration process for the demilitarization of assembled chemical munitions.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1999 for the use of the Department of Defense for research, development, test, and evaluation as follows:

(1) For the Army, $4,791,997,000.

(2) For the Navy, $8,377,059,000.

(3) For the Air Force, $13,785,401,000.

(4) For Defense-wide activities, $9,283,515,000, of which—

(A) $251,106,000 is authorized for the activities of the Director, Test and Evaluation; and

(B) $29,245,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNT FOR BASIC AND APPLIED RESEARCH.

(a) FISCAL YEAR 1999.—Of the amounts authorized to be appropriated by section 201, $3,078,251,000 shall be available for basic research and applied research projects.

(b) BASIC RESEARCH AND APPLIED RESEARCH DEFINED.—For purposes of this section, the term ''basic research and applied research'' means work funded in program elements for defense research and development under Department of Defense category 6.1 or 6.2.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 211. MANAGEMENT RESPONSIBILITY FOR NAVY MINE COUNTERMEASURES PROGRAMS.

Section 216(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1317, as amended) is amended by striking out ''through 1999'' and inserting in lieu thereof ''through 2003''.

SEC. 212. FUTURE AIRCRAFT CARRIER TRANSITION TECHNOLOGIES.

Of the funds authorized to be appropriated under section 201(2) for Carrier System Development (program element 0603512N), $50,000,000 shall be available for research, development, test, evaluation, and insertion into the CVN–77 nuclear aircraft carrier program of technologies designed to transition to, demonstrate enhanced capabilities for, or mitigate cost and technical risks of, the CV(X) aircraft carrier program.

SEC. 213. MANUFACTURING TECHNOLOGY PROGRAM.

(a) REQUIREMENTS RELATING TO COMPETITION.—Section 2525(d)(1) of title 10, United States Code, is amended—

(1) by inserting ''(A)'' after ''(1)''; and

(2) by adding at the end the following new subparagraph:

''(B) For each grant awarded and each contract, cooperative agreement, or other transaction entered into on a cost-share basis under the program, the ratio of contract recipient cost to Government cost shall be determined by competitive procedures. For a project for which the Government receives an offer from only one offeror, the contracting officer shall negotiate the ratio of contract recipient cost to Government cost that represents the best value to the Government.''.

(b) REQUIREMENTS RELATING TO COST SHARE WAIVERS.—Section 2525(d)(2) of such title is amended—

(1) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(2) by inserting ''(A)'' after ''(2)''; and

(3) by adding at the end the following new subparagraphs:

''(B) For any grant awarded or contract, cooperative agreement, or other transaction entered into on a basis other than a cost-sharing basis because of a determination made under subparagraph (A), the transaction file for the project concerned must document the rationale for the determination.

''(C) The Secretary of Defense may delegate the authority to make determinations under subparagraph (A) only to the Under Secretary of Defense for Acquisition and Technology or a service acquisition executive, as appropriate.''.

(c) COST SHARE GOAL.—Section 2525(d) of such title is amended—

(1) by striking out paragraph (4); and

(2) in paragraph (3)—

(A) by striking out ''At least'' and inserting in lieu thereof ''As a goal, at least'';

(B) by striking out ''shall'' and inserting in lieu thereof ''should''; and

(C) by adding at the end the following: ''The Secretary of Defense, in coordination with the Secretaries of the military departments and upon recommendation of the Under Secretary of Defense for Acquisition and Technology, shall establish annual objectives to meet such goal.''.

(d) ADDITIONAL INFORMATION TO BE INCLUDED IN FIVE-YEAR PLAN.—Section 2525(e)(1) of such title is amended—

(1) by striking ''and'' at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting ''; and''; and

(3) by inserting at the end the following new subparagraph:

''(C) the extent of cost sharing in the manufacturing technology program by companies in the private sector, weapons system program offices and other defense program offices, Federal agencies other than the Department of Defense, nonprofit institutions and universities, and other sources.''.

Subtitle C—Ballistic Missile Defense

SEC. 231. NATIONAL MISSILE DEFENSE POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) Threats posed by ballistic missiles and weapons of mass destruction to the national territory of the United States continue to grow as the trend in ballistic missile proliferation and development is toward longer range and increasingly sophisticated missiles.

(2) Russian and Chinese sources continue to proliferate missile and other advanced technologies.

(3) North Korea is developing the Taepo-Dong 2 missile, which would have a range sufficient to strike Alaska and Hawaii, and other countries hostile to the United States, including Iran, Libya, and Iraq, have demonstrated an interest in acquiring or developing ballistic missiles capable of reaching the United States.

(4) Russia's increased reliance on nuclear forces to compensate for the decline of its conventional forces and uncertainty regarding command and control of those nuclear forces increase the possibility of an accidental or unauthorized launch of Russian ballistic missiles.

(5) The United States could be deterred from effectively promoting or protecting its national interests around the world if any State or territory of the United States is vulnerable to long-range ballistic missiles deployed by nations hostile to the United States.

(b) SENSE OF CONGRESS CONCERNING NATIONAL MISSILE DEFENSE POLICY.—It is the sense of Congress that—

(1) any national missile defense system deployed by the United States must provide effective defense against limited, accidental, or unauthorized ballistic missile attack for all 50 States; and

(2) the territories of the United States should be afforded effective protection against ballistic missile attack.

SEC. 232. LIMITATION ON FUNDING FOR THE MEDIUM EXTENDED AIR DEFENSE SYSTEM.

None of the funds appropriated for fiscal year 1999 for the Ballistic Missile Defense Organization may be obligated for the Medium Extended Air Defense System (MEADS) until the Secretary of Defense certifies to Congress that the future-years defense plan includes sufficient programmed funding for that system to complete the design and development phase. If the Secretary does not submit such a certification by January 1, 1999, then (effective as of that date) the funds appropriated for fiscal year 1999 for the Ballistic Missile Defense Organization that are allocated for the MEADS program shall be available to support modification of the Patriot Advanced Capability–3, Configuration 3, so as to support the requirement for mobile theater missile defense to be met by the MEADS system.

SEC. 233. LIMITATION ON FUNDING FOR COOPERATIVE BALLISTIC MISSILE DEFENSE PROGRAMS.

Of the funds appropriated for fiscal year 1999 for the Russian-American Observational Satellite (RAMOS) program, $5,000,000 may not be obligated until the Secretary of Defense certifies to Congress that the Department of Defense has received detailed information concerning the nature, extent, and military implications of the transfer of ballistic missile technology from Russian sources to Iran.

SEC. 234. LIMITATION ON FUNDING FOR COUNTERPROLIFERATION SUPPORT.

None of the funds appropriated for fiscal year 1999 for counterproliferation support in Program Element 63160BR may be obligated until the Secretary of Defense submits to Congress the report required by section 234 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1664; 50 U.S.C. 2367) to be submitted not later than January 30, 1998.

SEC. 235. BALLISTIC MISSILE DEFENSE PROGRAM ELEMENTS.

(a) BMD PROGRAM ELEMENTS.—(1) Chapter 9 of title 10, United States Code, is amended by inserting after section 222 the following new section:

"§ 223. Ballistic missile defense programs

''(a) PROGRAM ELEMENTS SPECIFIED.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31), the amount requested for activities of the Ballistic Missile Defense Organization shall be set forth in accordance with the following program elements:

''(1) The Patriot system.

''(2) The Navy Area system.

''(3) The Theater High-Altitude Area Defense system.

''(4) The Navy Theater Wide system.

''(5) The Medium Extended Air Defense System.

''(6) Joint Theater Missile Defense.

''(7) National Missile Defense.

''(8) Support Technologies.

''(9) Family of Systems Engineering and Integration.

''(10) Ballistic Missile Defense Technical Operations.

''(11) Threat and Countermeasures.

''(12) International Cooperative Programs.

''(b) TREATMENT OF MAJOR DEFENSE ACQUISITION PROGRAMS.—Amounts requested for Theater Missile Defense and National Missile Defense major defense acquisition programs shall be specified in individual, dedicated program elements, and amounts appropriated for those programs shall be available only for Ballistic Missile Defense activities.

''(c) MANAGEMENT AND SUPPORT.—The amount requested for each program element specified in subsection (a) shall include requests for the amounts necessary for the management and support of the programs, projects, and activities contained in that program element.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 222 the following new item:

''223. Ballistic missile defense programs.''.

(b) REPEAL OF SUPERSEDED PROVISION.—Section 251 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 10 U.S.C. 221 note) is repealed.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 1999 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $16,339,700,000.
(2) For the Navy, $21,839,328,000.
(3) For the Marine Corps, $2,539,703,000.
(4) For the Air Force, $18,816,108,000.
(5) For Defense-wide activities, $10,354,216,000.
(6) For the Army Reserve, $1,197,622,000.
(7) For the Naval Reserve, $948,639,000.
(8) For the Marine Corps Reserve, $116,993,000.
(9) For the Air Force Reserve, $1,747,696,000.
(10) For the Army National Guard, $2,464,815,000.
(11) For the Air National Guard, $3,096,933,000.
(12) For the Defense Inspector General, $130,764,000.
(13) For the United States Court of Appeals for the Armed Forces, $7,324,000.
(14) For Environmental Restoration, Army, $377,640,000.
(15) For Environmental Restoration, Navy, $281,600,000.
(16) For Environmental Restoration, Air Force, $379,100,000.
(17) For Environmental Restoration, Defense-wide, $26,091,000.
(18) For Environmental Restoration, Formerly Used Defense Sites, $195,000,000.
(19) For Overseas Humanitarian, Disaster, and Civic Aid programs, $47,311,000.
(20) For Drug Interdiction and Counter-drug Activities, Defense-wide, $727,582,000.
(21) For the Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Trust Fund, $15,000,000.
(22) For Defense Health Program, $9,663,035,000.
(23) Former Soviet Union Threat Reduction programs, $417,400,000.
(24) For Overseas Contingency Operations Transfer Fund, $746,900,000.

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 1999 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Working Capital Funds, $1,076,571,000.
(2) For the National Defense Sealift Fund, $669,566,000.

SEC. 303. ARMED FORCES RETIREMENT HOME.

There is hereby authorized to be appropriated for fiscal year 1999 from the Armed Forces Retirement Home Trust Fund the sum of $70,745,000 for the operation of the Armed Forces Retirement Home, including the United States Soldiers' and Airmen's Home and the Naval Home.

SEC. 304. TRANSFER FROM NATIONAL DEFENSE STOCKPILE TRANSACTION FUND.

(a) TRANSFER AUTHORITY.—To the extent provided in appropriations Acts, not more than $150,000,000 is authorized to be transferred from the National Defense Stockpile Transaction Fund to operation and maintenance accounts for fiscal year 1999 in amounts as follows:

(1) For the Army, $50,000,000.
(2) For the Navy, $50,000,000.
(3) For the Air Force, $50,000,000.

(b) TREATMENT OF TRANSFERS.—Amounts transferred under this section—

(1) shall be merged with, and be available for the same purposes and the same period as, the amounts in the accounts to which transferred; and

(2) may not be expended for an item that has been denied authorization of appropriations by Congress.

(c) RELATIONSHIP TO OTHER TRANSFER AUTHORITY.—The transfer authority provided in this section is in addition to the transfer authority provided in section 1001.

SEC. 305. REFURBISHMENT OF M1–A1 TANKS.

Of the amount authorized to be appropriated pursuant to section 301(1) for operation and maintenance for the Army, $31,000,000 shall be available only for the refurbishment of up to 70 M1–A1 tanks under the AIM-XXI program.

SEC. 306. OPERATION OF PREPOSITIONED FLEET, NATIONAL TRAINING CENTER, FORT IRWIN, CALIFORNIA.

Of the amount authorized to be appropriated pursuant to section 301(1) for operation and maintenance for the Army, $60,200,000 shall be available only to pay costs associated with the operation of the prepositioned fleet of equipment during training rotations at the National Training Center, Fort Irwin, California.

SEC. 307. RELOCATION OF USS WISCONSIN.

Of the amount authorized to be appropriated pursuant to section 301(2) for operation and maintenance for the Navy, $6,000,000 may be available for the purpose of relocating the USS WISCONSIN, which is currently in a reserve status at the Norfolk Naval Shipyard, Virginia, to a suitable location in order to increase available berthing space at the shipyard.

SEC. 308. FISHER HOUSE TRUST FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 1999, out of funds in Fisher House Trust Funds not otherwise appropriated, for the operation of Fisher houses described in section 2221(d) of title 10, United States Code, as follows:

(1) From the Fisher House Trust Fund, Department of the Army, $250,000 for Fisher houses that are located in proximity to medical treatment facilities of the Army.

(2) From the Fisher House Trust Fund, Department of the Navy, $150,000 for Fisher houses that are located in proximity to medical treatment facilities of the Navy.

(3) From the Fisher House Trust Fund, Department of the Air Force, $150,000 for Fisher houses that are located in proximity to medical treatment facilities of the Air Force.

Subtitle B—Information Technology Issues

SEC. 311. ADDITIONAL INFORMATION TECHNOLOGY RESPONSIBILITIES OF CHIEF INFORMATION OFFICERS.

(a) IN GENERAL.—(1) Chapter 131 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2223. Information technology: additional responsibilities of Chief Information Officers

''(b) ADDITIONAL RESPONSIBILITIES.—In addition to the responsibilities provided for in chapter 35 of title 44 and in section 5125 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1425)—

''(1) the Chief Information Officer of the Department of Defense, with respect to the elements of the Department of Defense other than the military departments, shall—

''(A) review and provide recommendations to the Secretary of Defense on Department of Defense budget requests for information technology and national security systems;

''(B) ensure the interoperability of information technology and national security systems throughout the Department of Defense; and

''(C) ensure that information technology and national security systems standards that will apply throughout the Department of Defense are prescribed; and

''(2) the Chief Information Officer of each military department, with respect to the military department concerned, shall—

''(A) review budget requests for all information technology and national security systems;

''(B) ensure that information technology and national security systems are in compliance with standards of the Government and the Department of Defense;

''(C) ensure that information technology and national security systems are interoperable with other relevant information technology and national security systems of the Government and the Department of Defense;

''(D) provide for the elimination of duplicate information technology and national security systems within and between the military departments and Defense Agencies; and

''(E) coordinate with the Joint Staff with respect to information technology and national security systems.

''(b) DEFINITIONS.—In this section:

''(1) The term 'Chief Information Officer' means the senior official designated by the Secretary of Defense or a Secretary of a military department pursuant to section 3506 of title 44.

''(2) The term 'information technology' has the meaning given that term by section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

''(3) The term 'national security system' has the meaning given that term by section 5142 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1452).''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''2223. Information technology: additional responsibilities of Chief Information Officers.''.

(b) EFFECTIVE DATE.—Section 2223 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1998.

SEC. 312. DEFENSE-WIDE ELECTRONIC MALL SYSTEM FOR SUPPLY PURCHASES.

(a) ELECTRONIC MALL SYSTEM.—In this section, the term ''electronic mall system'' means an electronic system for displaying, ordering, and purchasing supplies and materiel available from sources within the Department of Defense and from the private sector.

(b) DEVELOPMENT AND MANAGEMENT.—Using existing systems and technology available in the Department of Defense, the Defense Logistics Agency shall develop a single, defense-wide electronic mall system. The Defense Logistics Agency shall be responsible for the management of the resulting electronic mall system. The Secretary of each military department and the head of each Defense Agency shall provide to the Defense Logistics Agency the necessary and requested data to support the development and operation of the electronic mall system.

(c) IMPLEMENTATION DATE.—The electronic mall system shall be operational and available throughout the Department of Defense not later than June 1, 1999. After that date, a military department or Defense Agency (other than the Defense Logistics Agency) may not develop or operate an electronic mall system.

SEC. 313. PROTECTION OF FUNDING PROVIDED FOR CERTAIN INFORMATION TECHNOLOGY AND NATIONAL SECURITY PROGRAMS.

(a) USE FOR SPECIFIED PURPOSES.—Of the amounts authorized to be appropriated to the Department of Defense for fiscal years 1999, 2000, and 2001 for information technology and national security programs of the Department of Defense, not less than the amount specified in subsection (b) shall be available for each such fiscal year for the purposes of the information technology and national security programs described in such subsection, unless an alternative use of the funds is specifically approved by a law enacted after the date of the enactment of the law originally authorizing the funds.

(b) COVERED PROGRAMS AND AMOUNTS.—The information technology and national security programs referred to in subsection (a), and the amounts to be available for each program, are the following:

(1) The Force XXI program of the Army, $360,000,000.

(2) The Information Technology for the 21st Century programs of the Navy, $472,000,000.

(3) The Communications Infrastructure programs of the Air Force, $228,500,000.

(4) The Telecom and Computing Infrastructure programs of the Marine Corps, $93,000,000.

(c) DEFINITIONS.—In this section:

(1) The term ''information technology'' has the meaning given that term in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

(2) The term ''national security system'' has the meaning given that term in section 5142 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1452).

SEC. 314. PRIORITY FUNDING TO ENSURE YEAR 2000 COMPLIANCE OF MISSION CRITICAL INFORMATION TECHNOLOGY AND NATIONAL SECURITY SYSTEMS.

(a) FUNDS FOR COMPLETION OF YEAR 2000 CONVERSION.—(1) Of the amounts authorized to be appropriated pursuant to this Act for information technology and national security systems of the Department of Defense designated as mission critical, not more than 25 percent may be used to fund activities unrelated to ensuring that the awareness, assessment, and renovation phases of year 2000 conversion for such information technology and national security systems are completed.

(2) Of the amounts authorized to be appropriated pursuant to this Act for information technology and national security systems of the Department of Defense (other than information technology and national security systems covered by paragraph (1)), not less than $1,000,000,000 shall be available only for transfer to support activities to ensure that the awareness, assessment, renovation, and validation phases of year 2000 conversion for information technology and national security systems covered by paragraph (1) are completed.

(b) EXCEPTIONS.—(1) This section does not apply to or affect funding for information technology and national security programs identified in section 313(b).

(2) The Secretary of Defense may authorize expenditures in excess of the 25 percent limitation specified in subsection (a)(1) if the Secretary determines that additional expenditures are required to prevent the failure of the information technology or national security system and provides prior notice to Congress of the reasons for the additional expenditures.

(c) TERMINATION.—(1) On the date on which the Secretary of Defense determines that the year 2000 renovation phase has been completed for a particular information technology or national security system covered by paragraph (1) of subsection (a), such paragraph shall cease to apply to that information technology or national security system.

(2) Paragraph (2) of such subsection shall cease to apply on the date on which the Secretary of Defense determines that all of the information technology and national security systems covered by paragraph (1) of such subsection are fully funded through the validation phase of year 2000 conversion, have an established contingency plan, and have completed a point of origin to point of execution evaluation.

(d) COMPTROLLER GENERAL REVIEW.—Not later than January 30, 1999, the Comptroller General shall submit to Congress a briefing containing the following:

(1) Separate lists of each information technology and national security system of the Department of Defense covered by subsection (a)(1) for which the renovation phase of year 2000 conversion is not completed by December 30, 1998.

(2) A evaluation of the effect of subsection (a) on the year 2000 conversion success rate.

(3) A list of each information technology and national security system covered by subsection (a)(1) that will not achieve year 2000 compliance by September 30, 1999.

(4) An explanation of how the military departments, the Joint Chiefs of Staff, and Defense Agencies are applying the definition of mission critical.

(5) Recommendations regarding the manner in which funding could best be allocated to achieve year 2000 compliance for the greatest number of information technology and national security systems covered by subsection (a)(1).

(e) DEFINITIONS.—In this section:

(1) The term ''information technology'' has the meaning given that term in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

(2) The term ''national security system'' has the meaning given that term in section 5142 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1452).

(3) The term ''mission critical'' means an information technology or national security system of the Department of Defense identified as mission critical in the table prepared by the Joint Chiefs of Staff entitled ''Mission Critical Systems (All Services/Agencies)'', dated March 20, 1998, or in the table printed by the Defense Integrated Support Tool entitled ''Year 2000 Information on Mission Critical Systems'', dated March 19, 1998.

(4) The terms ''awareness'', ''assessment'', ''renovation'', and ''validation'' have the meanings given the terms in the Department of Defense ''Year 2000 Management Plan'', version 1.0, released in April 1997.

SEC. 315. EVALUATION OF YEAR 2000 COMPLIANCE AS PART OF TRAINING EXERCISES PROGRAMS.

(a) REPORT ON EVALUATION PLAN.—Not later than December 15, 1998, the Secretary of Defense shall submit to Congress a report containing a plan to include a simulated year 2000 as part of the military exercises described in subsection (b) in order to evaluate, in an operational environment, the extent to which information technology and national security systems involved in the exercises will successfully operate, including the ability of the systems to access and transmit information from point of origin to point of termination, during the actual year 2000.

(b) COVERED MILITARY EXERCISES.—A military exercise referred to in subsection (a) is a military exercise conducted by the Department of Defense, during the period beginning on January 1, 1999, and ending on September 30, 1999—

(1) under the training exercises program known as the ''CJCS Exercise Program'';

(2) at the Naval Strike and Air Warfare Center, the Army National Training Center, or the Air Force Air Warfare Center; or

(3) as part of Naval Carrier Group fleet training or Marine Corps Expeditionary Unit training.

(c) ELEMENTS OF REPORT.—The report under subsection (a) shall include the following:

(1) A list of all military exercises described in subsection (b) to be conducted during the period specified in such subsection.

(2) A description of the manner in which the year 2000 will be simulated for information technology and national security systems involved in each military exercise.

(3) The duration of the year 2000 simulation in each military exercise.

(4) The methodology to be used in turning over the information technology and national security systems to the year 2000 in order to best identify those systems that fail to operate reliably during the military exercise.

(5) A list of the information technology and national security systems excluded from the plan under subsection (d)(1), including how the

military exercise will utilize an excluded system's year 2000 contingency plan.

(6) A list of the exercises and information technology and national security systems excluded from the plan under subsection (d)(2), and a description of the effect that continued year 2000 noncompliance of the systems would have on military readiness.

(d) EXCLUSIONS.—(1) Subsection (a) shall not apply to an information technology or national security system if the Secretary of Defense determines that the system will be incapable of performing reliably during the year 2000 simulation portion of the military exercise. In the case of each excluded system, the system may not be used during the period of the year 2000 simulation. Instead, the excluded system shall be replaced by the year 2000 contingency plan for the system.

(2) If the mission of a military exercise will be seriously hampered by the number of information technology and national security systems covered by paragraph (1), the Secretary of Defense may exclude the entire exercise from the requirements of subsection (a).

(3) Subsection (a) shall not apply to an information technology or national security system with cryptological applications.

(4) If the decision to exclude a military exercise or information technology or national security system is made under paragraph (1) or (2) after the date of the submission of the report required by subsection (a), the Secretary of Defense shall notify Congress of the exclusion not later than two weeks before commencing the military exercise. The notification shall include the information required under paragraph (5) or (6) of subsection (c), depending on whether the exclusion covers the entire exercise or particular information technology and national security systems.

(e) COMPTROLLER GENERAL REVIEW.—Not later than January 30, 1999, the Comptroller General shall review the report and plan submitted under subsection (a) and submit to Congress a briefing evaluating the methodology to be used under the plan to simulate the year 2000, describing the potential information that will be collected as a result of implementation of the plan, and describing the impact that the plan will have on military readiness.

(f) DEFINITIONS.—In this section:

(1) The term ''information technology'' has the meaning given that term in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

(2) The term ''national security system'' has the meaning given that term in section 5142 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1452).

Subtitle C—Environmental Provisions

SEC. 321. AUTHORIZATION TO PAY NEGOTIATED SETTLEMENT FOR ENVIRONMENTAL CLEANUP AT FORMER DEPARTMENT OF DEFENSE SITES IN CANADA.

(a) AUTHORIZATION.—To the extent provided in appropriations Acts, the Secretary of Defense may pay an amount to the Government of Canada of not more than $100,000,000 (in fiscal year 1996 constant dollars), for purposes of implementing the October 1996 negotiated settlement between the United States and Canada relating to environmental cleanup at various sites in Canada that were formerly used by the Department of Defense.

(b) METHOD OF PAYMENT.—The amount authorized by subsection (a) shall be paid in 10 annual payments, with the first payment made from amounts appropriated for fiscal year 1998.

(c) FISCAL YEAR 1998 PAYMENT.—The payment under this section for fiscal year 1998 shall be made from amounts appropriated pursuant to section 301(5) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1669).

(d) FISCAL YEAR 1999 PAYMENT.—The payment under this section for fiscal year 1999 shall be made from amounts appropriated pursuant to section 301(5).

(e) LIMITATION.—The authorization provided in this section shall not be construed as setting a precedent for payment under a treaty of an environmental claim made by another nation, unless the Senate has given its consent to the ratification of the treaty.

SEC. 322. REMOVAL OF UNDERGROUND STORAGE TANKS.

Of the amount authorized to be appropriated pursuant to section 301(18) (relating to environmental restoration of formerly used defense sites), the Secretary of the Army may use not more than $150,000 for the removal of underground storage tanks at the Authorities Allied Industrial Park, Macon, Georgia.

Subtitle D—Defense Infrastructure Support Improvement

SEC. 331. REPORTING AND STUDY REQUIREMENTS BEFORE CHANGE OF COMMERCIAL AND INDUSTRIAL TYPE FUNCTIONS TO CONTRACTOR PERFORMANCE.

(a) IN GENERAL.—Section 2461 of title 10, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (h) and transferring such subsection to appear after subsection (g); and

(2) by striking out subsections (a) and (b) and inserting in lieu thereof the following new subsections:

''(a) REPORTING AND STUDY REQUIREMENTS AS PRECONDITION TO CHANGE IN PERFORMANCE.—A commercial or industrial type function of the Department of Defense that, as of October 1, 1980, was being performed by Department of Defense civilian employees may not be changed to performance by a private contractor or changed to procurement through a private contractor until the Secretary of Defense fully complies with the reporting and study requirements specified in subsections (b) and (c).

''(b) NOTIFICATION AND ELEMENTS OF STUDY.—(1) Before commencing to study a commercial or industrial type function described in subsection (a) for possible change to performance by a private contractor or possible change to procurement through a private contractor, the Secretary of Defense shall submit to Congress a report containing the following:

''(A) The function to be studied for possible change.

''(B) The location at which the function is performed by Department of Defense civilian employees.

''(C) The number of civilian employee positions potentially affected.

''(D) The anticipated length and cost of the study.

''(E) A certification that the performance of the commercial or industrial type function by civilian employees of the Department of Defense is not precluded due to any constraint or limitation in terms of man years, end strengths, full-time equivalent positions, or maximum number of employees.

''(2) The responsibility of the Secretary of Defense to submit the report required under paragraph (1) may be delegated only to senior acquisition executives or higher officials for the military departments and the Defense Agencies.

''(3) The study of a commercial or industrial type function for possible change in performance shall include the following:

''(A) A comparison of the cost of performance of the function by Department of Defense civilian employees and by private contractor to demonstrate whether change to performance by a private contractor or change to procurement through a private contractor will result in savings to the Government over the life of the contract, including in the comparison—

''(i) the amount estimated by the Secretary of Defense (based on bids received) to be the amount of a contract for performance of the function by a private contractor;

''(ii) the cost to the Government of Department of Defense civilian employees performing the function; and

''(iii) the costs and expenditures which the Government would incur (in addition to the amount of the contract) because of the award of such a contract.

''(B) An examination of the potential economic effect of performance of the function by a private contractor—

''(i) on employees who would be affected by such a change in performance; and

''(ii) on the local community and the Government, if more than 75 employees perform the function.

''(C) An examination of the effect of performance of the function by a private contractor on the military mission of the function.

''(4) If the commercial or industrial type function at issue involves a working-capital fund in the Department of Defense and the study concerns the possible procurement by a requisitioning agency of services or supplies from a private contractor instead of the working-capital fund, in lieu of the comparison required by paragraph (3), the study shall include a comparison of the sources of the services or supplies to determine which source is more cost-effective for the requisitioning agency.

''(5) An individual or entity at a facility where a commercial or industrial type function is studied for possible change in performance may raise an objection to the study on the grounds that the report required under paragraph (1) as a precondition for the study does not contain the certification required by subparagraph (E) of such paragraph. The objection may be raised at any time during the course of the study, shall be in writing, and shall be submitted to the Secretary of Defense. If the Secretary determines that the certification was omitted, the commercial or industrial type function covered by the study may not be the subject of request for proposal or award of a contract until a certification is made that fully complies with paragraph (1)(E) and the other requirements of this section are satisfied.

''(c) NOTIFICATION OF DECISION.—(1) If, as a result of the completion of a study under subsection (b)(3), a decision is made to change the commercial or industrial type function that was the subject of the study to performance by a private contractor or to procurement through a private contractor, the Secretary of Defense shall submit to Congress a report describing that decision. The report shall—

''(A) indicate that the study under subsection (b)(3) has been completed;

''(B) certify that the Government calculation for the cost of performance of the function by Department of Defense civilian employees is based on an estimate of the most efficient and cost effective organization for performance of the function by Department of Defense civilian employees;

''(C) certify that the comparison required by subsection (b)(3)(A) (or alternatively by subsection (b)(4)) as part of the study demonstrates that the performance of the function by a private contractor or procurement of the function through a private contractor will result in savings to the Government over the life of the contract;

''(D) certify that the entire comparison is available for examination; and

''(E) contain a timetable for completing change of the function to contractor performance.

''(2) The actual change of the function to contractor performance may not begin until after the submission of the report required by this subsection.''.

(b) CONFORMING AMENDMENTS.—(1) Subsections (e)(2) and (f)(1) of such section are amended by striking out ''converted'' and inserting in lieu thereof ''changed''.

(2) Subsection (f)(2) of such section is amended by striking out ''conversion'' and inserting in lieu thereof ''change''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of

the enactment of this Act but shall not apply with respect to conversion of a function of the Department of Defense to performance by a private contractor concerning which the Secretary of Defense provided to Congress, before the date of the enactment of this Act, a notification under paragraph (1) of section 2461(a) of title 10, United States Code, as in effect on the day before the date of the enactment of this Act.

SEC. 332. CLARIFICATION OF REQUIREMENT TO MAINTAIN GOVERNMENT-OWNED AND GOVERNMENT-OPERATED CORE LOGISTICS CAPABILITY.

Section 2464 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(c) RULE OF CONSTRUCTION.—The requirement under subsection (a) that the Department of Defense maintain a core logistics capability that is Government-owned and Government-operated is not satisfied when a core logistics workload is converted to contractor performance even though the actual performance of the workload will be carried out in a Government-owned, Government-operated facility of the Department of Defense as a subcontractor of the private contractor. Nothing in section 2474 of this title or section 337 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2717) authorizes the use of subcontracts as a means to provide workloads to Government-owned, Government-operated facilities of the Department of Defense in order to satisfy paragraph (4) of subsection (a).''.

SEC. 333. OVERSIGHT OF DEVELOPMENT AND IMPLEMENTATION OF AUTOMATED IDENTIFICATION TECHNOLOGY.

(a) SMARTCARD PROGRAM DEFINED.—In this section, the term ''smartcard program'' means an automated identification technology program, including any pilot program, employing one or more of the following technologies:

(1) Magnetic stripe.

(2) Bar codes, both linear and two-dimensional (including matrix symbologies).

(3) Smartcard.

(4) Optical memory.

(5) Personal computer memory card international association carriers.

(6) Other established or emerging automated identification technologies, including biometrics and radio frequency identification.

(b) OVERSIGHT RESPONSIBILITY.—(1) The Smartcard Technology Office established in the Defense Human Resources Field Activity of the Department of Defense shall be responsible for—

(A) overseeing the development and implementation of all smartcard programs in the Department; and

(B) coordinating smartcard programs with the Joint Staff, the Secretaries of the military departments, and the directors of the Defense Agencies.

(2) After the date of the enactment of this Act, funds appropriated for the Department of Defense may not be obligated for a smartcard program unless the program is reviewed and approved by the Smartcard Technology Office. The review and approval before that date of a smartcard program by the Office is sufficient to satisfy the requirements of this paragraph.

(c) TYPES OF OVERSIGHT.—As part of its oversight responsibilities, the Smartcard Technology Office shall establish standards designed—

(1) to ensure the compatibility and interoperability of smartcard programs in the Department of Defense; and

(2) to identify and terminate redundant, unfeasible, or uneconomical smartcard programs.

SEC. 334. CONDITIONS ON EXPANSION OF FUNCTIONS PERFORMED UNDER PRIME VENDOR CONTRACTS.

(a) PRIME VENDOR CONTRACT DEFINED.—For purposes of this section, the term ''prime vendor contract'' means an innovative contract that gives a defense contractor the responsibility to manage, store, and distribute inventory, manage and provide services, or manage and perform research, on behalf of the Department of Defense on a frequent, regular basis, for users within the Department on request. The term includes contracts commonly referred to as prime vendor support contracts, flexible sustainment contracts, and direct vendor delivery contracts.

(b) CONDITIONS ON EXPANDED USE.—If the Secretary of Defense or the Secretary of a military department proposes to enter into a prime vendor contract for a hardware system, including the performance or management of depot-level maintenance and repair (as defined in section 2460 of title 10, United States Code) or logistics management responsibilities, the Secretary may not enter into the prime vendor contract until the end of the 60-day period beginning on the date on which the Secretary submits to Congress a report, specific to that proposal, that—

(1) describes the competitive procedures to be used to award the prime vendor contract;

(2) evaluates the effect of the prime vendor contract on working-capital funds in the Department of Defense; and

(3) contains a cost/benefit analysis that demonstrates that use of the prime vendor contract will result in savings to the Government over the life of the contract.

(c) COMPTROLLER GENERAL REVIEW.—During the waiting period provided in subsection (b) for a proposed prime vendor contract, the Comptroller General shall review the report submitted under subsection (b) with respect to that contract and submit to Congress a report regarding—

(1) whether the cost savings to the Government identified in the report submitted under subsection (b) are achievable; and

(2) whether use of a prime vendor contract will comply with the requirements of chapter 146 of title 10, United States Code, applicable to depot-level maintenance and repair.

(d) RELATIONSHIP TO OTHER LAWS.—Nothing in this section shall be construed to exempt a prime vendor contract from the requirements of section 2461 of title 10, United States Code, or any other provision of chapter 146 of such title.

SEC. 335. CLARIFICATION OF DEFINITION OF DEPOT-LEVEL MAINTENANCE AND REPAIR.

Section 2460(a) of title 10, United States Code, is amended by inserting before the period at the end of the first sentence the following: ''or the location at which the maintenance or repair is performed''.

SEC. 336. CLARIFICATION OF COMMERCIAL ITEM EXCEPTION TO REQUIREMENTS REGARDING CORE LOGISTICS CAPABILITIES.

Section 2464(a)(5) of title 10, United States Code, is amended—

(1) by inserting ''(A)'' after ''(5)'';

(2) by adding at the end of subparagraph (A), as so designated, the following: ''The determination of whether a modification is minor shall be based on a comparison of only the critical systems of the version sold in the commercial marketplace and the version purchased by the Government, and a modification may not be considered to be minor unless at least 90 percent of the total content by component value remains identical.''; and

(3) by adding at the end the following new subparagraph:

''(B) In this paragraph, the term 'substantial quantities' means, with respect to determining whether an item is a commercial item, that purchases and leases of the item to the general public constitute the majority of all transactions involving the item at the time the exception under paragraph (3) is proposed to be exercised.''.

SEC. 337. DEVELOPMENT OF PLAN FOR ESTABLISHMENT OF CORE LOGISTICS CAPABILITIES FOR MAINTENANCE AND REPAIR OF C–17 AIRCRAFT.

(a) FINDINGS.—Congress finds the following:

(1) The C–17 aircraft, which is replacing the C–141 aircraft, will serve as the cornerstone of heavy airlift capability of the Armed Forces.

(2) The C–17 aircraft achieved initial operational capability in January 1995 and will complete the significant fourth year of its operational capability in January 1999.

(3) As provided in section 2464(a)(3) of title 10, United States Code, the C–17 aircraft is a weapon system that is ''necessary to enable the armed forces to fulfill the strategic and contingency plans prepared by the Chairman of the Joint Chiefs of Staff''.

(4) The depot-level maintenance and repair of such a weapon system must be performed at Government-owned, Government-operated facilities of the Department of Defense in order to maintain the core logistics capabilities of the Department of Defense, as required under such section 2464.

(5) The sole-source contract entered into in January 1998 regarding the depot-level maintenance and repair of C–17 aircraft and related tasks, known as the Interim Contract for the C–17 Flexible Sustainment Program, does not meet the requirements of law.

(b) PLAN REQUIRED.—Not later than March 1, 1999, the Secretary of the Air Force shall submit to Congress a plan for the establishment of the core logistics capabilities for the C–17 aircraft consistent with the requirements of section 2464 of title 10, United States Code.

(c) EFFECT ON EXISTING CONTRACT.—After March 1, 1999, the Secretary of the Air Force may not extend the Interim Contract for the C–17 Flexible Sustainment Program until after the end of the 60-day period beginning on the date the plan required by subsection (b) is received by Congress.

(d) COMPTROLLER GENERAL REVIEW.—During the period specified in subsection (c), the Comptroller General shall review the plan required under subsection (b) and submit to Congress a report evaluating the merits of the plan.

SEC. 338. CONTRACTOR-OPERATED CIVIL ENGINEERING SUPPLY STORES PROGRAM.

(a) DEFINITIONS.—In this section:

(1) The term ''contractor-operated civil engineering supply store'' means a Government-owned facility that, as of the date of the enactment of this Act, is operated by a contractor under the contractor-operated civil engineering supply store (COCESS) program of the Department of the Air Force for the purpose of—

(A) maintaining inventories of civil engineering supplies on behalf of a military department; and

(B) furnishing such supplies to the department as needed.

(2) The term ''civil engineering supplies'' means parts and supplies needed for the repair and maintenance of military installations.

(b) FINDINGS.—Congress finds the following:

(1) In 1970, the Strategic Air Command of the Air Force began to use contractor-operated civil engineering supply stores to improve the efficiency and effectiveness of materials management and relieve the Air Force from having to maintain large inventories of civil engineering supplies.

(2) Contractor-operated civil engineering supply stores are designed to support the civil engineering and public works efforts of the Armed Forces through the provision of quality civil engineering supplies at competitive prices and within a reasonable period of time.

(3) Through the use of a contractor-operated civil engineering supply store, a guaranteed inventory level of civil engineering supplies is maintained at a military installation, which ensures that urgently needed civil engineering supplies are available on site.

(4) The contractor operating the contractor-operated civil engineering supply store is an independent business organization whose customer is a military department and the Armed Forces and who is subject to all the rules of private business and the regulations of the Government.

(5) The use of contractor-operated civil engineering supply stores ensures the best price and best buy for the Government.

(6) Ninety-five percent of the cost savings realized through the use of contractor-operated civil engineering supply stores is due to savings in the cost of actually procuring supplies.

(7) In the past 30 years, private contractors have never lost a cost comparison conducted pursuant to the criteria set forth in Office of Management and Budget Circular A–76 for the provision of civil engineering supplies to the Government.

(c) CONDITIONS ON MULTI-FUNCTION CONTRACTS.—A civil engineering supplies function that is performed, as of the date of the enactment of this Act, by a contractor-operated civil engineering supply store may not be combined with another supply function or any service function, including any base operating support function, for purposes of competition or contracting, until—

(1) the Secretary of Defense submits to Congress a report—

(A) notifying Congress of the proposed combined competition or contract; and

(B) explaining why a combined competition or contract is the best method by which to achieve cost savings and efficiencies to the Government; and

(2) the Comptroller General reviews the report and submits to Congress a briefing regarding whether the cost savings and efficiencies identified in the report are achievable.

(d) RELATIONSHIP TO OTHER LAWS.—If a civil engineering supplies function covered by subsection (c) is proposed for combination with a supply or service function that is subject to the study and reporting requirements of section 2461 of title 10, United States Code, the Secretary of Defense may include the report required under subsection (c) as part of the report under such section.

SEC. 339. REPORT ON SAVINGS AND EFFECT OF PERSONNEL REDUCTIONS IN ARMY MATERIEL COMMAND.

(a) REPORT REQUIRED.—Not later than March 31, 1999, the Comptroller General shall submit to the congressional defense committees a report concerning—

(1) the effect that the proposed personnel reductions in the Army Materiel Command will have on workload and readiness if implemented; and

(2) the likelihood that the cost savings projected to occur from such reductions will actually be achieved.

(b) DELAY IN IMPLEMENTATION OF REDUCTIONS PENDING REPORT.—During the period specified in subsection (c), the Secretary of Defense and the Secretary of the Army may not commence personnel reductions based on the guidelines contained in the May 1997 report of the Quadrennial Defense Review (including the National Defense Panel) prepared pursuant to subtitle B of title IX of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 10 U.S.C. 111 note) at any Army Material Command facility that provides depot-level maintenance and repair or at any Army Arsenal.

(c) DURATION OF DELAY.—Subsection (b) applies only during the period beginning on the date of the enactment of this Act and ending on the earlier of the following:

(1) March 31, 1999.

(2) The date on which the report required by subsection (a) is submitted.

Subtitle E—Commissaries and Nonappropriated Fund Instrumentalities

SEC. 341. CONTINUATION OF MANAGEMENT AND FUNDING OF DEFENSE COMMISSARY AGENCY THROUGH THE OFFICE OF THE SECRETARY OF DEFENSE.

Section 192 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(d) SPECIAL RULE FOR DEFENSE COMMISSARY AGENCY.—Notwithstanding the results of the periodic review required under subsection (c) with regard to the Defense Commissary Agency, the Secretary of Defense may not transfer to the Secretary of a military department the responsibility to manage and fund the provision of services and supplies provided by the Defense Commissary Agency unless the transfer of the management and funding responsibility is specifically authorized by a law enacted after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1999.''.

SEC. 342. EXPANSION OF CURRENT ELIGIBILITY OF RESERVES FOR COMMISSARY BENEFITS.

(a) DAYS OF ELIGIBILITY FOR READY RESERVE MEMBERS WITH 50 CREDITABLE POINTS.—Section 1063 of title 10, United States Code, is amended—

(1) by striking out subsection (b); and

(2) in subsection (a)—

(A) by striking out ''(1)'';

(B) by striking out ''12 days of eligibility'' and inserting in lieu thereof ''24 days of eligibility''; and

(C) by striking out ''(2) Paragraph (1)'' and inserting in lieu thereof ''(b) EFFECT OF COMPENSATION OR TYPE OF DUTY.—Subsection (a)''.

(b) DAYS OF ELIGIBILITY FOR RESERVE RETIREES UNDER AGE 60.—Section 1064 of such title is amended by striking out ''for 12 days each calendar year'' and inserting in lieu thereof ''for 24 days each calendar year''.

(c) ELIGIBILITY OF MEMBERS OF NATIONAL GUARD SERVING IN FEDERALLY DECLARED DISASTER.—Chapter 54 of such title is amended by inserting after section 1063 the following new section:

''§1063a. Use of commissary stores and MWR retail facilities: members of National Guard serving in federally declared disaster

''(a) ELIGIBILITY OF MEMBERS.—A member of the National Guard who, although not in Federal service, is called or ordered to duty in response to a federally declared disaster shall be permitted to use commissary stores and MWR retail facilities during the period of such duty on the same basis as members of the armed forces on active duty.

''(b) ELIGIBILITY OF DEPENDENTS.—A dependent of a member of the National Guard who is permitted under subsection (a) to use commissary stores and MWR retail facilities shall be permitted to use such stores and facilities, during the same period as the member, on the same basis as dependents of members of the armed forces on active duty.

''(c) DEFINITIONS.—In this section:

''(1) FEDERALLY DECLARED DISASTER.—The term 'federally declared disaster' means a disaster or other situation for which a Presidential declaration of major disaster is issued under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

''(2) MWR RETAIL FACILITIES.—The term 'MWR retail facilities' means exchange stores and other revenue-generating facilities operated by nonappropriated fund activities of the Department of Defense for the morale, welfare, and recreation of members of the armed forces.''.

(d) SECTION HEADINGS.—(1) The heading of section 1063 of such title is amended to read as follows:

''§1063. Use of commissary stores: members of Ready Reserve with at least 50 creditable points''.

(2) The heading of section 1064 of such title is amended to read as follows:

''§1064. Use of commissary stores: persons qualified for retired pay under chapter 1223 but under age 60''.

(e) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 54 of such title is amended by striking out the items relating to sections 1063 and 1064 and inserting in lieu thereof the following items:

''1063. Use of commissary stores: members of Ready Reserve with at least 50 creditable points.

''1063a. Use of commissary stores and MWR retail facilities: members of National Guard serving in federally declared disaster.

''1064. Use of commissary stores: persons qualified for retired pay under chapter 1223 but under age 60.''.

SEC. 343. REPEAL OF REQUIREMENT FOR AIR FORCE TO SELL TOBACCO PRODUCTS TO ENLISTED PERSONNEL.

(a) REPEAL.—Section 9623 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 939 of such title is amended by striking out the item relating to section 9623.

SEC. 344. RESTRICTIONS ON PATRON ACCESS TO, AND PURCHASES IN, OVERSEAS COMMISSARIES AND EXCHANGE STORES.

(a) AUTHORITY TO IMPOSE RESTRICTIONS; LIMITATIONS ON AUTHORITY.—Chapter 147 of title 10, United States Code, is amended by adding at the end the following new section:

''§2491. Overseas commissary and exchange stores: access and purchase restrictions

''(a) GENERAL AUTHORITY.—The Secretary of Defense may establish restrictions on the ability of eligible patrons of commissary and exchange stores located outside of the United States to purchase certain merchandise items (or the quantity of certain merchandise items) otherwise included within an authorized merchandise category if the Secretary determines that such restrictions are necessary to prevent the resale of such merchandise in violation of host nation laws or treaty obligations of the United States. In establishing a quantity or other restriction, the Secretary shall ensure that the restriction is consistent with the purpose of the overseas commissary and exchange system to provide reasonable access for eligible patrons to purchase merchandise items made in the United States.

''(b) CONTROLLED ITEM LISTS.—For each location outside the United States that is served by the commissary system or the exchange system, the Secretary of Defense may maintain a list of controlled merchandise items, except that, after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1999, the Secretary may not change the list to add a merchandise item unless, before making the change, the Secretary submits to Congress a notice of the proposed addition and the reasons for the addition of the item.

''(c) SPECIAL RULES FOR KOREA.—(1) The Secretary of Defense may not prohibit a dependent who resides in Korea, is at least 21 years of age, and is otherwise eligible to use the commissary and exchange system, from purchasing alcoholic beverages through the commissary and exchange system. Quantity restrictions on the purchase of alcoholic beverages may be imposed, and any such restriction may be enforced through the use of an issued ration control device, but a dependent may not be required to sign for any purchase. A quantity restriction on malt beverages may not restrict purchases to fewer than eight cases, of 24-units per case, per month. Daily or weekly restrictions on malt beverage purchases may not be imposed. The purchase of malt beverages may be recorded on a ration control device, but eligible patrons may not be required to sign for any purchase.

''(2) A dependent residing in Korea who is at least 18 years of age and otherwise eligible to use the commissary and exchange system may purchase tobacco products on the same basis as other eligible patrons of the commissary and exchange system.

''(3) Eligible patrons of the commissary and exchange system who are traveling through a military air terminal in Korea shall be authorized to the purchase sundry items, including tobacco products, on a temporary basis during the

normal operating hours of commissary and exchange stores operated in connection with the terminal.

''(4) In applying restrictions to dependents of members of the armed forces, the Secretary of Defense may not differentiate between a dependent whose movement to Korea was authorized at the expense of the United States under section 406 of title 37 and other dependents residing in Korea.

''(d) REPORTING REQUIREMENTS.—The Secretary of Defense shall submit to Congress an annual report describing the host nation laws and the treaty obligations of the United States, and the conditions within host nations, that necessitate the use of quantity or other restrictions on purchases in commissary and exchange stores located outside the United States.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''2491. Overseas commissary and exchange stores: access and purchase restrictions.''.

SEC. 345. EXTENSION OF DEMONSTRATION PROJECT FOR UNIFORM FUNDING OF MORALE, WELFARE, AND RECREATION ACTIVITIES.

Section 335 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 10 U.S.C. 2241 note) is amended—

(1) in subsection (c), by striking out ''not later than September 30, 1998'' and inserting in lieu thereof ''on September 30, 1999''; and

(2) in subsection (e)(2), by striking out ''a final report on the results'' and inserting in lieu thereof ''an additional report on the progress''.

SEC. 346. PROHIBITION ON CONSOLIDATION OR OTHER ORGANIZATIONAL CHANGES OF DEPARTMENT OF DEFENSE RETAIL SYSTEMS.

(a) DEFENSE RETAIL SYSTEMS DEFINED.—For purposes of this section, the term ''defense retail systems'' means the defense commissary system and exchange stores and other revenue-generating facilities operated by nonappropriated fund activities of the Department of Defense for the morale, welfare, and recreation of members of the Armed Forces.

(b) PROHIBITION.—The operation and administration of the defense retail systems may not be consolidated or otherwise changed, and a study or review may not be commenced regarding the need for or merits of such a consolidation or change, unless the consolidation, change, study, or review is specifically authorized by a law enacted after the date of the enactment of this Act.

(c) EFFECT ON EXISTING STUDY.—Nothing in this section shall be construed to prohibit the study of defense retail systems, known as the ''Joint Exchange Due Diligence Study'', which is underway on the date of the enactment of this Act pursuant to a contract awarded by the Department of the Navy on April 21, 1998, except that any recommendation contained in the completed study regarding the operation or administration of the defense retail systems may not be implemented unless implementation of the recommendation is specifically authorized by a law enacted after the date of the enactment of this Act.

SEC. 347. AUTHORIZED USE OF APPROPRIATED FUNDS FOR RELOCATION OF NAVY EXCHANGE SERVICE COMMAND.

The Navy Exchange Service Command is not required to reimburse the United States for appropriated funds allotted to the Navy Exchange Service Command during fiscal years 1994, 1995, and 1996 to cover costs incurred by the Navy Exchange Service Command to relocate to Virginia Beach, Virginia, and to lease headquarters space in Virginia Beach.

SEC. 348. EVALUATION OF MERIT OF SELLING MALT BEVERAGES AND WINE IN COMMISSARY STORES AS EXCHANGE SYSTEM MERCHANDISE.

(a) PATRON SURVEY.—(1) The Secretary of Defense shall enter into a contract with a commercial survey firm to conduct a survey of eligible patrons of the commissary store system to determine patron interest in having commissary stores sell malt beverages and wine as exchange store merchandise.

(2) The survey shall be conducted at not less than three military installations in the United States of each of the Armed Forces (other than the Coast Guard).

(3) The survey shall be completed, and the results submitted to the Secretary of Defense, not later than November 30, 1998.

(b) DEMONSTRATION PROJECT.—(1) After consideration of the survey results, the Secretary of Defense may conduct a demonstration project at seven military installations in the United States (two Army installations, two Air Force installations, two Navy installations, and one Marine Corps installation) to evaluate the merit of selling malt beverages and wine in commissary stores as exchange store merchandise. Under the demonstration project, the Secretary may sell malt beverages and wine in commissary stores as exchange store merchandise notwithstanding the general requirement that merchandise sold in, at, or by commissary stores be commissary store inventory.

(2) The demonstration project may only be conducted in States where it is legal to sell malt beverages and wine in grocery stores.

(3) Not later than February 1, 1999, the Secretary of Defense shall determine whether to conduct the demonstration project. Any such demonstration project shall be completed not later than September 30, 2000.

(c) REPORT.—(1) If the Secretary of Defense conducts a demonstration project under subsection (b), the Secretary shall submit to Congress a report describing the results of the demonstration project. The report shall include a description of patron views, the impact on commissary sales, the impact on exchange sales, and the impact, if any, on dividends for morale, welfare, and recreation activities.

(2) The report shall be submitted not later than March 1, 2000.

(d) LIMITATION.—Nothing in this section shall be construed to authorize the sale of malt beverages and wine in commissary stores as commissary store inventory.

Subtitle F—Other Matters

SEC. 361. ELIGIBILITY REQUIREMENTS FOR ATTENDANCE AT DEPARTMENT OF DEFENSE DOMESTIC DEPENDENT ELEMENTARY AND SECONDARY SCHOOLS.

(a) DEPENDENTS OF MEMBERS RESIDING IN CERTAIN AREAS.—Subsection (a) of section 2164 of title 10, United States Code, is amended—

(1) by inserting ''(1)'' before ''If'';

(2) by designating the second sentence as paragraph (2); and

(3) by adding at the end of paragraph (2) (as so designated) the following new sentence: ''If a member of the armed forces is assigned to a remote location or is assigned to an unaccompanied tour of duty, a dependent of the member who resides, on or off a military installation, in a territory, commonwealth, or possession of the United States, as authorized by the member's orders, may be enrolled in an educational program provided by the Secretary under this subsection.''.

(b) WAIVER OF FIVE-YEAR ATTENDANCE LIMITATION.—Subsection (c)(2) of such section is amended by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraph:

''(B) At the discretion of the Secretary, a dependent referred to in subparagraph (A) may be enrolled in the program for more than five consecutive school years if the dependent is otherwise qualified for enrollment, space is available in the program, and the Secretary will be reimbursed for the services provided. Any such extension shall cover only one school year at a time.''.

SEC. 362. SPECIFIC EMPHASIS OF PROGRAM TO INVESTIGATE FRAUD, WASTE, AND ABUSE WITHIN DEPARTMENT OF DEFENSE.

Section 392 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 10 U.S.C. 113 note) is amended by inserting before the period the following: ''and any fraud, waste, and abuse occurring in connection with overpayments made to vendors by the Department of Defense, including overpayments identified under section 354 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 10 U.S.C. 2461 note)''.

SEC. 363. REVISION OF INSPECTION REQUIREMENTS RELATING TO ARMED FORCES RETIREMENT HOME.

Section 1518 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 418) is amended to read as follows:

''SEC. 1518. INSPECTION OF RETIREMENT HOME.

''(a) PERIODIC INSPECTION.—The Inspector Generals of the military departments shall conduct, at three-year intervals, an inspection of the Retirement Home and the records of the Retirement Home. Each inspection under this subsection shall be performed by a single Inspector General on an alternating basis.

''(b) REPORT.—The Inspector General of a military department who performs an inspection of the Retirement Home under subsection (a) shall submit to the Retirement Home Board, the Secretary of Defense, and Congress a report describing the results of the inspection and containing such recommendations as the Inspector General considers appropriate.''.

SEC. 364. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) CONTINUATION OF DEPARTMENT OF DEFENSE PROGRAM FOR FISCAL YEAR 1999.—Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities—

(1) $30,000,000 shall be available only for the purpose of providing educational agencies assistance (as defined in subsection (d)(1)) to local educational agencies; and

(2) $5,000,000 shall be available only for the purpose of making educational agencies payments (as defined in subsection (d)(2)) to local educational agencies.

(b) NOTIFICATION.—Not later than June 30, 1999, the Secretary of Defense shall—

(1) notify each local educational agency that is eligible for educational agencies assistance for fiscal year 1999 of that agency's eligibility for such assistance and the amount of such assistance for which that agency is eligible; and

(2) notify each local educational agency that is eligible for an educational agencies payment for fiscal year 1999 of that agency's eligibility for such payment and the amount of the payment for which that agency is eligible.

(c) DISBURSEMENT OF FUNDS.—The Secretary of Defense shall disburse funds made available under paragraphs (1) and (2) of subsection (a) not later than 30 days after the date on which notification to the eligible local educational agencies is provided pursuant to subsection (b).

(d) DEFINITIONS.—In this section:

(1) The term ''educational agencies assistance'' means assistance authorized under section 386(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 7703 note).

(2) The term ''educational agencies payments'' means payments authorized under section 386(d) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 7703 note).

(3) The term ''local educational agency'' has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

SEC. 365. STRATEGIC PLAN FOR EXPANSION OF DISTANCE LEARNING INITIATIVES.

(a) DEVELOPMENT OF PLAN.—The Secretary of Defense shall develop a strategic plan for guiding and expanding distance learning initiatives in the Department of Defense. The strategic plan shall cover the five-year period beginning on October 1, 1999.

(b) ELEMENTS OF PLAN.—The strategic plan required by this section shall contain at a minimum the following elements:

(1) Measurable goals and objectives, including outcome-related performance indicators, for developing distance learning initiatives in the Department that would be consistent with the principles of the Government Performance and Results Act of 1993 (section 306 of title 5 and sections 1115 through 1119, 9703, and 9704 of title 31).

(2) A description of the manner in which distance learning initiatives will be developed and managed in the Department.

(3) An estimate of the costs and benefits associated with developing and maintaining an infrastructure in the Department to support distance learning initiatives and a statement of planned expenditures for investments necessary to build and maintain the infrastructure.

(4) A description of mechanisms that will be used to oversee the development and coordination of distance learning initiatives in the Department.

(c) CONSIDERATION OF CURRENT EFFORT.—In developing the strategic plan required by this section, the Secretary of Defense may recognize the collaborative distance learning effort of the Department of Defense and other Federal agencies and private industry (known as the Advanced Distribution Learning initiative), but the strategic plan shall be specific to the goals and objectives of the Department.

(d) SUBMISSION OF PLAN.—Not later than March 1, 1999, the Secretary of Defense shall submit to Congress the completed strategic plan required by this section.

SEC. 366. PUBLIC AVAILABILITY OF OPERATING AGREEMENTS BETWEEN MILITARY INSTALLATIONS AND FINANCIAL INSTITUTIONS.

With respect to an agreement between the commander of a military installation in the United States (or the designee of an installation commander) and a financial institution that permits, allows, or otherwise authorizes the provision of financial services by the financial institution on the military installation, nothing in the terms or nature of such an agreement shall be construed to exempt the agreement from the provisions of sections 552 and 552a of title 5, United States Code.

SEC. 367. DEPARTMENT OF DEFENSE READINESS REPORTING SYSTEM.

(a) ESTABLISHMENT OF SYSTEM.—(1) Chapter 2 of title 10, United States Code, is amended by inserting after section 116 the following new section:

''§ 117. Readiness reporting system: establishment; reporting to congressional committees

''(a) REQUIRED READINESS REPORTING SYSTEM.—The Secretary of Defense shall establish a comprehensive readiness reporting system for the Department of Defense. The readiness reporting system shall measure in an objective, accurate, and timely manner the capability of the armed forces to carry out—

''(1) the National Security Strategy prescribed by the President in the most recent annual national security strategy report under section 108 of the National Security Act of 1947 (50 U.S.C. 404a);

''(2) the defense planning guidance provided by the Secretary of Defense pursuant to section 113(g) of this title; and

''(3) the National Military Strategy prescribed by the Chairman of the Joint Chiefs of Staff.

''(b) READINESS REPORTING SYSTEM CHARACTERISTICS.—In establishing the readiness reporting system, the Secretary shall ensure—

''(1) that the readiness reporting system is applied uniformly throughout the Department of Defense;

''(2) that information in the readiness reporting system is continually updated, with any change in the overall readiness status of a unit, of an element of the training establishment, or an element of defense infrastructure that is required to be reported as part of the readiness reporting system shall be reported within 24 hours of the event necessitating the change in readiness status; and

''(3) that sufficient resources are provided to establish and maintain the system so as to allow reporting of changes in readiness status as required by this section.

''(c) CAPABILITIES.—The readiness reporting system shall have the capability to do the following:

''(1) Measure the capability of units (both as elements of their respective armed force and as elements of joint forces) to conduct their assigned wartime missions.

''(2) Measure the capability of training establishments to provide trained and ready forces for wartime missions.

''(3) Measure the capability of defense installations and facilities and other elements of Department of Defense infrastructure, both in the United States and abroad, to provide appropriate support to forces in the conduct of their wartime missions.

''(4) Measure critical warfighting deficiencies in unit capability, training establishments, and defense infrastructure.

''(5) Measure the level of current risk based upon the readiness reporting system relative to the capability of forces to carry out their wartime missions.

''(6) Measure such other factors relating to readiness as the Secretary prescribes.

''(d) PERIODIC JOINT READINESS REVIEW.—The Chairman of the Joint Chiefs of Staff shall periodically, and not less frequently than monthly, conduct a joint readiness review. The Chairman shall incorporate into each such review the current information derived from the readiness reporting system and shall assess the capability of the armed forces to execute their wartime missions based upon their posture at the time of the review. The Chairman shall submit to the Secretary of Defense the results of each review, including the deficiencies in readiness identified during that review.

''(e) SUBMISSION TO CONGRESSIONAL COMMITTEES.—The Secretary shall each month submit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the House of Representatives a report in writing containing the complete results of each review under subsection (d) during the preceding month, including the current information derived from the readiness reporting system. Each such report shall be submitted in unclassified form and may, as the Secretary determines necessary, also be submitted in classified form.

''(f) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section. In those regulations, the Secretary shall prescribe the units that are subject to reporting in the readiness reporting system, what type of equipment is subject to such reporting, and the elements of the training establishment and of defense infrastructure that are subject to such reporting.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 116 the following new item:

''117. Readiness reporting system: establishment; reporting to congressional committees.''.

(b) IMPLEMENTATION.—The Secretary of Defense shall establish and implement the readiness reporting system required by section 117 of title 10, United States Code, as added by subsection (a), so as to ensure that the capabilities required by subsection (c) of that section are attained not later than July 1, 1999.

(c) IMPLEMENTATION PLAN.—Not later than March 1, 1999, the Secretary of Defense shall submit to Congress a report setting forth the Secretary's plan for implementation of section 117 of title 10, United States Code, as added by subsection (a).

(d) REPEAL OF QUARTERLY READINESS REPORT REQUIREMENT.—Effective July 1, 1999, or the date on which the first report of the Secretary of Defense is submitted under section 117(d) of title 10, United States Code, as added by subsection (a), whichever is later—

(1) section 482 of title 10, United States Code, is repealed; and

(2) the table of sections at the beginning of chapter 23 of such title is amended by striking out the item relating to that section.

SEC. 368. TRAVEL BY RESERVISTS ON CARRIERS UNDER CONTRACT WITH GENERAL SERVICES ADMINISTRATION.

(a) RESERVE USE OF FEDERAL SUPPLY TRANSPORTATION.—Chapter 1217 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 12603. Travel: use of carriers under contract with General Services Administration

''A member of a reserve component who requires transportation in order to perform inactive duty training may use a carrier under contract with the General Services Administration to provide the transportation. The transportation shall be provided by the carrier in the same manner as transportation is provided to members of the armed forces and civilian employees who are traveling at Government expense, except that the Reserve is responsible for the cost of the travel at the contract rate. The Secretary concerned may require the Reserve to use a Government approved travel card to ensure that the transportation is procured for the purpose of performing inactive duty training.''.

(b) CLERICAL AMENDMENT.—The table of sections for such chapter is amended by adding at the end the following new item:

''12603. Travel: use of carriers under contract with General Services Administration.''.

Subtitle G—Demonstration of Commercial-Type Practices To Improve Quality of Personal Property Shipments

SEC. 381. DEMONSTRATION PROGRAM REQUIRED.

(a) IN GENERAL.—The Secretary of Defense shall conduct a demonstration program, to be known as the ''Commercial-Like Activities for Superior Quality Demonstration Program'', pursuant to this subtitle to test commercial-style practices to improve the quality of personal property shipments within the Department of Defense.

(b) DEFINITIONS.—In this subtitle:

(1) The term ''CLASS Demonstration Program'' means the Commercial-Like Activities for Superior Quality Demonstration Program required by subsection (a).

(2) The term ''affiliated'' means an entity that is owned and controlled by another entity or an independently owned entity whose day-to-day business operations are controlled by another entity.

(3) The term ''best value CLASS score'' means a weighted score that reflects an eligible provider's past performance rating score and the schedules of charges for services provided.

(4) The term ''broker'' means an entity, described in section 13102(2) of title 49, United States Code, that conducts operations on behalf of the Military Traffic Management Command and possesses appropriate authority from the Department of Transportation or an appropriate State regulatory agency to arrange for the transportation of personal property in interstate, intrastate, or foreign commerce.

(5) The term ''freight forwarder'' means an entity that provides the services described in section 13102(8) of title 49, United States Code, in interstate, intrastate, or foreign commerce and possesses the authority to provide such services from the Department of Transportation or an appropriate State regulatory agency.

(6) The term ''motor carrier'' means an entity that uses motor vehicles to transport personal property in interstate, intrastate, or foreign commerce and possesses the authority to provide such services from the Department of Transportation or an appropriate State regulatory agency.

(7) The term ''motor vehicles'' has the meaning given such term in section 13102(14) of title 49, United States Code.

(8) The term ''move management services provider'' means an entity that provides certain services in connection with the shipment of the household goods of a member of the Armed Forces, such as arranging, coordinating, and monitoring the shipment.

(9) The term ''test plan'' means the plan prepared under section 384 for the conduct of the CLASS Demonstration Program.

SEC. 382. GOALS OF DEMONSTRATION PROGRAM.

The goals of the CLASS Demonstration Program are to—

(1) adopt commercial-style practices to improve the quality of Department of Defense personal property shipments within the United States and to foreign locations;

(2) adopt simplified acquisition procedures for the selection of contractors qualified to provide various types of personal property shipping services and for the award of individual orders to such contractors;

(3) assure ready access of the Department of Defense to a sufficient number of qualified providers of personal property shipping to permit timely shipments during periods of high demand for such services;

(4) assure maximum practicable opportunities for small business concerns to participate as prime contractors rather than subcontractors;

(5) empower Installation Transportation Officers to assure that the personal property shipping needs of individual members of the Armed Forces are met in a timely manner by quality contractors who minimize opportunities for damage; and

(6) provide for the expedited resolution of claims for damaged or lost property through direct settlement negotiations between the service provider and the member of the Armed Forces who sustains the loss, with commercial-like arbitration available to the member with the assistance of the military department concerned.

SEC. 383. PROGRAM PARTICIPANTS.

(a) ELIGIBLE SERVICE PROVIDERS.—(1) Any motor carrier, freight forwarder, or broker regularly providing personal property shipping services that is approved by the Military Traffic Management Command to provide such services to the Department of Defense is eligible to participate in the CLASS Demonstration Program. A motor carrier providing domestic personal property shipping services shall not be precluded from providing such services to international destinations through an affiliated freight forwarder.

(2) If a motor carrier is affiliated with another motor carrier or freight forwarder that also seeks qualification to participate in the CLASS Demonstration Program, the affiliate must demonstrate that it also conducts independent regular motor carrier operations using motor vehicles or independent freight forwarding services described in subparagraph (A), (B), or (C) of section 13102(8) of title 49, United States Code. If a freight forwarder is affiliated with another freight forwarder or motor carrier that also seeks qualification to participate in the program, the affiliate must demonstrate that it also conducts regular independent operations.

(b) MOVE MANAGEMENT SERVICES PROVIDERS.—The test plan may provide for the participation of a broker providing move management services. A move management service provider shall be compensated for providing such services solely by the Department of Defense. The test plan shall prohibit a move management services provider from obtaining a commission (or similar type of payment however denominated) from a motor carrier or freight forwarder providing the personal property shipping services.

(c) DEMONSTRATION PROGRAM PARTICIPANTS.—Eligible service providers shall be offered participation in the CLASS Demonstration Program on the basis of their best value CLASS score. Each eligible service provider's best value CLASS score shall be computed in a manner that assigns 70 percent of the weighted average to the provider's past performance rating and 30 percent to the provider's offered prices.

SEC. 384. TEST PLAN.

(a) IN GENERAL.—The CLASS Demonstration Program shall be conducted pursuant to a test plan.

(b) COMPONENTS OF THE TEST PLAN.—In addition to such other matters as the Secretary of Defense considers appropriate, the test plan shall include the following components:

(1) RATING PAST PERFORMANCE.—A past performance rating score shall be developed for each eligible service provider based on—

(A) evaluations from service members who have received personal property shipping services during a specified six-month rating period prior to the commencement of the CLASS Demonstration Program; or

(B) a rating of comparable personal property shipping services provided to non-Department of Defense customers during the same rating period, if an eligible provider did not make a sufficient number of military personal property shipments during the rating period to be assigned a rating pursuant to subparagraph (A).

(2) PARTICIPATION BY QUALITY SERVICE PROVIDERS.—A minimum best value CLASS score shall be established for participation in the CLASS Demonstration Program. In establishing the minimum score for participation, consideration shall be given to assuring access to sufficient numbers of service providers to meet the needs of members of the Armed Forces during periods of high demand for such personal property shipping services.

(3) SIMPLIFIED ACQUISITION PROCEDURES.—The CLASS Demonstration Program shall make use of simplified acquisition procedures similar to those provided in section 2304(g)(1)(A) of title 10, United States Code.

(4) PRICING.—The test plan shall specify pricing policies to be met by the CLASS Demonstration Program participants. The pricing policies shall reflect the following:

(A) Domestic pricing shall be based on the contemporary Household Goods Carriers Commercial Tariff 400–M, or subsequent reissues thereof, applicable to commercial domestic shipments with discounts and adjustments for States outside the continental United States.

(B) So-called single factor rates for international shipments.

(C) Full value protection for a shipment based on the actual cash value of the contents of the shipment with liability limited on a per pound basis as well as a total-value basis.

(5) ALLOCATION OF ORDERS.—Orders to provide personal property shipping services shall be allocated by the appropriate Installation Transportation Officer taking into consideration—

(A) the service provider's best value CLASS score;

(B) maximum practicable utilization of small business service providers;

(C) exceptional performance of a CLASS Demonstration Program participant; and

(D) other criteria necessary to advance the goals of the CLASS Demonstration Program, except that carrier selection by a member of the Armed Forces using the CLASS Demonstration Program shall be honored if the selection does not conflict with subparagraph (A) or (B) and the need to maintain adequate capacity.

(6) PERFORMANCE EVALUATION DURING THE TERM OF THE DEMONSTRATION PROGRAM.—The CLASS Demonstration Program shall provide for procedures for evaluation of the Demonstration Program participants by the members of the Armed Forces furnished personal property shipping services and by Installation Transportation Officers. To the maximum extent practicable, such evaluations shall be objective and quantifiable. The program participant shall be accorded the opportunity to review and make comment on a performance evaluation provided by an individual in a manner that will not deter candid evaluations by the individual. The results of this evaluation may be used in developing future best value CLASS scores.

(7) MODERN CUSTOMER SERVICE TECHNIQUES.—The CLASS Demonstration Program shall maximize the testing of modern customer service techniques, such as in-transit tracking of shipments and service member communication with the service provider by means of toll-free telephone numbers.

(8) DIRECT CLAIMS SETTLEMENT TECHNIQUES.—The CLASS Demonstration Program shall provide for settlement of claims for personal property lost or damaged directly with the firm providing the services. The procedures shall provide for—

(A) acknowledgment of a claim by the service provider within 30 days of receipt;

(B) provision of a settlement offer within 120 days;

(C) filing of a claim within nine months, with appropriate extensions for extenuating circumstances relating to war or national emergency that impair the ability of a member of the Armed Forces to file a timely claim; and

(D) referring of an unsettled claim by the member of the Armed Forces to a designated claims officer for assistance in resolving the claim or seeking commercial-like arbitration of the claim, or both, if considered appropriate by the claims officer.

(9) CRITERIA FOR EVALUATION OF THE OVERALL DEMONSTRATION PROGRAM.—The CLASS Demonstration Program shall include the development of criteria to evaluate the overall performance and effectiveness of the CLASS demonstration program.

(c) DEVELOPMENT IN COLLABORATION WITH INDUSTRY.—In developing the test plan, the Secretary of Defense shall maximize collaboration with representatives of associations that represent all segments of the affected industries. Special efforts shall be made to actively involve those associations that represent small business providers of personal property shipping services.

(d) OPPORTUNITY FOR PUBLIC COMMENT ON PROPOSED TEST PLAN.—Notice of the availability of the test plan shall be published in the Federal Register and given by other means likely to result in the notification of eligible service providers and associations that represent them. Copies of the proposed test plan may be made available in a printable electronic format. The public shall be afforded 60 days to comment on the proposed test plan.

SEC. 385. OTHER METHODS OF PERSONAL PROPERTY SHIPPING.

The CLASS Demonstration Program shall not impair the access of a member of the Armed Forces to the shipment of personal property through the programs known as the Do-It-Yourself Program or the Direct Procurement Method Program.

SEC. 386. DURATION OF DEMONSTRATION PROGRAM.

The CLASS Demonstration Program shall commence on the first day of the fiscal year quarter after the issuance of the test plan in final form and terminate on the last day of the fiscal year quarter after eight fiscal year quarters of operation. The CLASS Demonstration Program shall take the place of the re-engineering pilot solicitation of the Military Traffic

Management Command identified as DAMTO1–97–R–3001.

SEC. 387. EVALUATION OF DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary of Defense shall provide for the evaluation the CLASS Demonstration Program throughout the term of the program pursuant to the evaluation criteria included in the test plan.

(b) INTERIM REPORTS.—The Secretary of Defense shall issue such interim reports relating to the implementation of the CLASS Demonstration Program as may be appropriate.

(c) FINAL REPORT.—The Secretary of Defense shall issue a final report on the CLASS Demonstration Program within 180 days before the termination date of the program. The report may include recommendations for further implementation of the CLASS Demonstration Program.

(d) CONGRESSIONAL RECIPIENTS.—The reports required by this section shall be furnished to the congressional defense committees and the Committee on Small Business of the Senate and the House of Representatives.

(e) PUBLIC AVAILABILITY.—The Secretary of Defense shall provide public notice of the availability of copies of the reports submitted to the congressional recipients through a notice in the Federal Register and such other means as may be appropriate. Copies of the reports may be made available in a printable electronic format or in a printed form.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 1999, as follows:

(1) The Army, 484,800.

(2) The Navy, 376,423.

(3) The Marine Corps, 173,922.

(4) The Air Force, 371,577.

SEC. 402. REVISION IN PERMANENT END STRENGTH LEVELS.

(a) REVISED END STRENGTH FLOORS.—Subsection (b) of section 691 of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out ''495,000'' and inserting in lieu thereof ''484,800'';

(1) in paragraph (2), by striking out ''390,802'' and inserting in lieu thereof ''376,423''; and

(2) in paragraph (3), by striking out ''174,000'' and inserting in lieu thereof ''173,922''.

(b) REVISION TO FLEXIBILITY AUTHORITY FOR THE ARMY.—Subsection (e) of such section is amended by striking out ''or, in the case of the Army, by not more than 1.5 percent''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1998.

SEC. 403. DATE FOR SUBMISSION OF ANNUAL MANPOWER REQUIREMENTS REPORT.

Section 115a(a) of title 10, United States Code, is amended—

(1) by striking out '', not later than February 15 of each fiscal year,'' in the first sentence; and

(2) by striking out ''The report shall be in writing and'' in the second sentence and inserting in lieu thereof ''The report shall be submitted each year not later than 30 days after the date on which the budget for the next fiscal year is transmitted to Congress pursuant to section 1105 of title 31, shall be in writing, and''.

SEC. 404. EXTENSION OF AUTHORITY FOR CHAIRMAN OF THE JOINT CHIEFS OF STAFF TO DESIGNATE UP TO 12 GENERAL AND FLAG OFFICER POSITIONS TO BE EXCLUDED FROM GENERAL AND FLAG OFFICER GRADE LIMITATIONS.

Section 526(b)(2) of title 10, United States Code, is amended by striking out ''October 1, 1998'' and inserting in lieu thereof ''October 1, 2001''.

Subtitle B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1999, as follows:

(1) The Army National Guard of the United States, 357,000.

(2) The Army Reserve, 209,000.

(3) The Naval Reserve, 90,843.

(4) The Marine Corps Reserve, 40,018.

(5) The Air National Guard of the United States, 106,991.

(6) The Air Force Reserve, 74,242.

(7) The Coast Guard Reserve, 8,000.

(b) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year, and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strengths of such units and by the total number of such individual members.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 1999, the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 21,763.

(2) The Army Reserve, 12,804.

(3) The Naval Reserve, 15,590.

(4) The Marine Corps Reserve, 2,362.

(5) The Air National Guard of the United States, 10,930.

(6) The Air Force Reserve, 991.

SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS).

The minimum number of military technicians (dual status) as of the last day of fiscal year 1999 for the reserve components of the Army and the Air Force (notwithstanding section 129 of title 10, United States Code) shall be the following:

(1) For the Army Reserve, 5,395.

(2) For the Army National Guard of the United States, 23,125.

(3) For the Air Force Reserve, 9,761.

(4) For the Air National Guard of the United States, 22,408.

SEC. 414. INCREASE IN NUMBER OF MEMBERS IN CERTAIN GRADES AUTHORIZED TO SERVE ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

(a) OFFICERS.—The table in section 12011(a) of title 10, United States Code, is amended to read as follows:

''Grade	Army	Navy	Air Force	Marine Corps
Major or Lieutenant Commander	3,219	1,071	776	140
Lieutenant Colonel or Commander	1,524	520	672	90
Colonel or Navy Captain	438	188	274	30''.

(b) SENIOR ENLISTED MEMBERS.—The table in section 12012(a) of such title is amended to read as follows:

''Grade	Army	Navy	Air Force	Marine Corps
E–9	623	202	388	20
E–8	2,585	429	979	94''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take efffect on October 1, 1998.

Subtitle C—Authorization of Appropriations

SEC. 421. AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 1999 a total of $70,697,086,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 1999.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

SEC. 501. CODIFICATION OF ELIGIBILITY OF RETIRED OFFICERS AND FORMER OFFICERS FOR CONSIDERATION BY SPECIAL SELECTION BOARDS.

(a) PERSONS NOT CONSIDERED BY PROMOTION BOARDS DUE TO ADMINISTRATIVE ERROR.—Subsection (a) of section 628 of title 10, United States Code, is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

''(a) PERSONS NOT CONSIDERED BY PROMOTION BOARDS DUE TO ADMINISTRATIVE ERROR.—(1) If the Secretary of the military department concerned determines that because of administrative error a person who should have been considered for selection for promotion by a promotion board was not so considered, the Secretary shall convene a special selection board under this subsection to determine whether that person (whether or not then on active duty) should be recommended for promotion.'';

(2) in paragraph (2), by striking out ''the officer as his record'' in the first sentence and inserting in lieu thereof ''the person whose name was referred to it for consideration as that record''; and

(3) in paragraph (3), by striking out ''an officer in a grade'' and all that follows through ''the officer'' and inserting in lieu thereof ''a person whose name was referred to it for consideration for selection for appointment to a grade other than a general officer or flag officer grade, the person''.

(b) PERSONS CONSIDERED BY PROMOTION BOARDS IN UNFAIR MANNER.—Subsection (b) of such section is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

''(b) PERSONS CONSIDERED BY PROMOTION BOARDS IN UNFAIR MANNER.—(1) If the Secretary of the military department concerned determines, in the case of a person who was considered for selection for promotion by a promotion board but was not selected, that there was material unfairness with respect to that person, the Secretary may convene a special selection board under this subsection to determine whether that person (whether or not then on active duty) should be recommended for promotion. In order to determine that there was material unfairness, the Secretary must determine that—

''(A) the action of the promotion board that considered the person was contrary to law or involved material error of fact or material administrative error; or

''(B) the board did not have before it for its consideration material information.'';

(2) in paragraph (2), by striking out ''the officer as his record'' in the first sentence and inserting in lieu thereof ''the person whose name was referred to it for consideration as that record''; and

(3) in paragraph (3)—

(A) by striking out ''an officer'' and inserting in lieu thereof ''a person''; and

(B) by striking out ''the officer'' and inserting in lieu thereof ''the person''.

(c) CONFORMING AMENDMENTS.—(1) Subsection (c) of such section is amended—

(A) by inserting ''REPORTS OF BOARDS.—'' after ''(c)'';

(B) by striking out ''officer'' both places it appears in paragraph (1) and inserting in lieu thereof ''person''; and

(C) in paragraph (2), by adding the following new sentence at the end: ''However, in the case of a board convened under this section to consider a warrant officer or former warrant officer, the provisions of sections 576(d) and 576(f) of this title (rather than the provisions of section 617(b) and 618 of this title) apply to the report and proceedings of the board in the same manner as they apply to the report and proceedings of a selection board convened under section 573 of this title.''.

(2) Subsection (d)(1) of such section is amended—

(A) by inserting ''APPOINTMENT OF PERSONS SELECTED BY BOARDS.—'' after ''(d)'';

(B) by striking out ''an officer'' and inserting in lieu thereof ''a person'';

(C) by striking out ''such officer'' and inserting in lieu thereof ''that person'';

(D) by striking out ''the next higher grade'' the second place it appears and inserting in lieu thereof ''that grade'';

(E) by adding at the end the following: ''However, in the case of a board convened under this section to consider a warrant officer or former warrant officer, if the report of that board, as approved by the Secretary concerned, recommends that warrant officer or former warrant officer for promotion to the next higher grade, that person shall, as soon as practicable, be appointed to the next higher grade in accordance with provisions of section 578(c) of this title (rather than subsections (b), (c), and (d) of section 624 of this title).''.

(3) Subsection (d)(2) of such section is amended—

(A) by striking out ''An officer who is promoted'' and inserting in lieu thereof ''A person who is appointed'';

(B) by striking out ''such promotion'' and inserting in lieu thereof ''that appointment''; and

(C) by adding at the end the following new sentence: ''In the case of a person who is not on the active-duty list when appointed to the next higher grade, placement of that person on the active-duty list pursuant to the preceding sentence shall be only for purposes of determination of eligibility of that person for consideration for promotion by any subsequent special selection board under this section.''.

(d) APPLICABILITY TO DECEASED PERSONS.—Subsection (e) of such section is amended to read as follows:

''(e) DECEASED PERSONS.—If a person whose name is being considered for referral to a special selection board under this section dies before the completion of proceedings under this section with respect to that person, this section shall be applied to that person posthumously.''.

(e) RECODIFICATION OF ADMINISTRATIVE MATTERS.—Such section is further amended by adding at the end the following::

''(f) CONVENING OF BOARDS.—A board convened under this section—

''(1) shall be convened under regulations prescribed by the Secretary of Defense;

''(2) shall be composed in accordance with section 612 of this title or, in the case of board to consider a warrant officer or former warrant officer, in accordance with section 573 of this title and regulations prescribed by the Secretary of the military department concerned; and

''(3) shall be subject to the provisions of section 613 of this title.

''(g) PROMOTION BOARD DEFINED.—In this section, the term 'promotion board' means a selection board convened by the Secretary of a military department under section 573(a) or 611(a) of this title.''.

(f) RATIFICATION OF CODIFIED PRACTICE.—The consideration by a special selection board convened under section 628 of title 10, United States Code, before the date of the enactment of this Act of a person who, at the time of consideration, was a retired officer or former officer of the Armed Forces (including a deceased retired or former officer) is hereby ratified.

SEC. 502. COMMUNICATION TO PROMOTION BOARDS BY OFFICERS UNDER CONSIDERATION.

Section 614(b) of title 10, United States Code, is amended by striking out ''his case'' and inserting in lieu thereof ''enhancing his case for selection for promotion''.

SEC. 503. PROCEDURES FOR SEPARATION OF REGULAR OFFICERS FOR SUBSTANDARD PERFORMANCE OF DUTY OR CERTAIN OTHER REASONS.

(a) ELIMINATION OF REQUIREMENT FOR A BOARD OF REVIEW.—Section 1182(c) of title 10, United States Code, is amended by striking out ''it shall send the record of its proceedings to a board of review convened under section 1183 of this title'' and inserting in lieu thereof ''it shall report that determination to the Secretary concerned'';

(b) REPEAL OF BOARD OF REVIEW.—(1) Section 1183 of such title is repealed.

(2) The table of sections at the beginning of chapter 60 of such title is amended by striking out the item relating to section 1183.

(c) CONFORMING AMENDMENTS.—(1) Section 1184 of such title is amended by striking out ''board of review convened under section 1183 of this title'' and inserting in lieu thereof ''board of inquiry convened under section 1182 of this title''.

(2) The heading of such section and the item relating to such section in the table of sections at the beginning of chapter 60 of such title are amended by striking out the last two words.

(d) ELIMINATION OF 30-DAY NOTICE REQUIREMENT.—Section 1185(a)(1) of such title is amended by striking out '', at least 30 days before the hearing of his case by a board of inquiry,''.

SEC. 504. POSTHUMOUS COMMISSIONS AND WARRANTS.

Section 1521 of title 10, United States Code, is amended—

(1) by inserting ''(whether before or after the member's death)'' in subsection (a)(3) after ''approved by the Secretary concerned''; and

(2) by adding at the end of subsection (b) the following new sentence: ''In the case of a member to whom subsection (a)(3) applies who dies before approval by the Secretary concerned of the appointment or promotion, the commission shall issue as of the date of death.''.

SEC. 505. TENURE OF CHIEF OF THE AIR FORCE NURSE CORPS.

Section 8069(b) of title 10, United States Code, is amended by striking out '', but not for more than three years, and may not be reappointed to the same position'' in the last sentence.

Subtitle B—Reserve Component Matters

SEC. 511. COMPOSITION OF SELECTIVE EARLY RETIREMENT BOARDS OF RESERVE GENERAL AND FLAG OFFICERS OF THE NAVY AND MARINE CORPS.

Section 14705(b) of title 10, United States Code, is amended to read as follows:

''(b) BOARDS.—(1) If the Secretary of the Navy determines that consideration of officers for early retirement under this section is necessary, the Secretary shall convene a continuation board under section 14101(b) of this title to recommend an appropriate number of officers for early retirement.

''(2) In the case of such a board convened to consider officers in the grade of rear admiral or major general—

''(A) the Secretary may appoint the board without regard to section 14102(b) of this title; and

''(B) each member of the board must be serving in a grade higher than the grade of rear admiral or major general.''.

SEC. 512. ACTIVE STATUS SERVICE REQUIREMENT FOR PROMOTION CONSIDERATION FOR ARMY AND AIR FORCE RESERVE COMPONENT BRIGADIER GENERALS.

Section 14301 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(g) A reserve component brigadier general of the Army or the Air Force who is in an inactive status is eligible (notwithstanding subsection (a)) for consideration for promotion to major general by a promotion board convened under section 14101(a) of this title if the officer—

''(1) has been in an inactive status for less than one year as of the date of the convening of the promotion board; and

''(2) had continuously served for at least one year on the reserve active status list or the active duty list (or a combination of both) immediately before the officer's most recent transfer to an inactive status.''.

SEC. 513. REVISION TO EDUCATIONAL REQUIREMENT FOR PROMOTION OF RESERVE OFFICERS.

(a) EXTENSION FOR ARMY OCS GRADUATES.—Section 12205(b)(4) of title 10, United States Code, is amended by inserting after ''October 1, 1995'' the following: '', or in the case of an officer commissioned through the Army Officer Candidate School, October 1, 2000''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of October 1, 1995.

Subtitle C—Military Education and Training

SEC. 521. REQUIREMENTS RELATING TO RECRUIT BASIC TRAINING.

(a) ARMY.—(1) Chapter 401 of title 10, United States Code, is amended by adding at the end the following new section:

''§4319. Recruit basic training: separate platoons and separate housing for male and female recruits

''(a) SEPARATE PLATOONS.—The Secretary of the Army shall require that during basic training—

''(1) male recruits shall be assigned to platoons consisting only of male recruits; and

''(2) female recruits shall be assigned to platoons consisting only of female recruits.

''(b) SEPARATE HOUSING FACILITIES.—The Secretary of the Army shall require that during basic training male and female recruits be housed in separate barracks or other troop housing facilities.

''(c) INTERIM AUTHORITY FOR HOUSING RECRUITS ON SEPARATE FLOORS.—(1) If the Secretary of the Army determines that it is not feasible, during some or all of the period beginning on April 15, 1999, and ending on October 1, 2001, to comply with subsection (b) at any particular installation at which basic training is conducted because facilities at that installation are insufficient for such purpose, the Secretary may grant a waiver of subsection (b) with respect to that installation. Any such waiver may not be in effect after October 1, 2001, and may only be in effect while the facilities at that installation are insufficient for the purposes of compliance with subsection (b).

''(2) If the Secretary grants a waiver under paragraph (1) with respect to an installation, the Secretary shall require that male and female recruits in basic training at that installation during any period that the waiver is in effect not be housed on the same floor of a barracks or other troop housing facility.

''(d) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training program of the Army that constitutes the basic training of new recruits.''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''4319. Recruit basic training: separate platoons and separate housing for male and female recruits.''.

(3) The Secretary of the Army shall implement section 4319 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999.

(b) NAVY AND MARINE CORPS.—(1) Part III of subtitle C of title 10, United States Code, is amended by inserting after chapter 601 the following new chapter:

''CHAPTER 602—TRAINING GENERALLY

''Sec.
''6931. Recruit basic training: separate small units and separate housing for male and female recruits.

''§ 6931. Recruit basic training: separate small units and separate housing for male and female recruits

''(a) SEPARATE SMALL UNIT ORGANIZATION.—The Secretary of the Navy shall require that during basic training—

''(1) male recruits in the Navy shall be assigned to divisions, and male recruits in the Marine Corps shall be assigned to platoons, consisting only of male recruits; and

''(2) female recruits in the Navy shall be assigned to divisions, and female recruits in the Marine Corps shall be assigned to platoons, consisting only of female recruits.

''(b) SEPARATE HOUSING.—The Secretary of the Navy shall require that during basic training male and female recruits be housed in separate barracks or other troop housing facilities.

''(c) INTERIM AUTHORITY FOR HOUSING RECRUITS ON SEPARATE FLOORS.—(1) If the Secretary of the Navy determines that it is not feasible, during some or all of the period beginning on April 15, 1999, and ending on October 1, 2001, to comply with subsection (b) at any particular installation at which basic training is conducted because facilities at that installation are insufficient for that purpose, the Secretary may grant a waiver of subsection (b) with respect to that installation. Any such waiver may not be in effect after October 1, 2001, and may only be in effect while the facilities at that installation are insufficient for the purposes of compliance with subsection (b).

''(2) If the Secretary grants a waiver under paragraph (1) with respect to an installation, the Secretary shall require that male and female recruits in basic training at that installation during any period that the waiver is in effect not be housed on the same floor of a barracks or other troop housing facility.

''(d) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training programs of the Navy and Marine Corps that constitute the basic training of new recruits.''.

(2) The tables of chapters at the beginning of subtitle C, and at the beginning of part III of subtitle C, of such title are amended by inserting after the item relating to chapter 601 the following new item:

''602. Training Generally ..... 6931''.

(3) The Secretary of the Navy shall implement section 6931 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999.

(c) AIR FORCE.—(1) Chapter 901 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 9319. Recruit basic training: separate flights and separate housing for male and female recruits

''(a) SEPARATE FLIGHTS.—The Secretary of the Air Force shall require that during basic training—

''(1) male recruits shall be assigned to flights consisting only of male recruits; and

''(2) female recruits shall be assigned to flights consisting only of female recruits.

''(b) SEPARATE HOUSING.—The Secretary of the Air Force shall require that during basic training male and female recruits be housed in separate dormitories or other troop housing facilities.

''(c) INTERIM AUTHORITY FOR HOUSING RECRUITS ON SEPARATE FLOORS.—(1) If the Secretary of the Air Force determines that it is not feasible, during some or all of the period beginning on April 15, 1999, and ending on October 1, 2001, to comply with subsection (b) at any particular installation at which basic training is conducted because facilities at that installation are insufficient for such purpose, the Secretary may grant a waiver of subsection (b) with respect to that installation. Any such waiver may not be in effect after October 1, 2001, and may only be in effect while the facilities at that installation are insufficient for the purposes of compliance with subsection (b).

''(2) If the Secretary grants a waiver under paragraph (1) with respect to an installation, the Secretary shall require that male and female recruits in basic training at that installation during any period that the waiver is in effect not be housed on the same floor of a dormitory or other troop housing facility.

''(d) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training program of the Air Force that constitutes the basic training of new recruits.''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''9319. Recruit basic training: separate flights and separate housing for male and female recruits.''.

(3) The Secretary of the Air Force shall implement section 9319 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999.

SEC. 522. AFTER-HOURS PRIVACY FOR RECRUITS DURING BASIC TRAINING.

(a) PURPOSE.—The purpose of this section is to ensure that military recruits are provided some degree of privacy during basic training when in their barracks after completion of the normal training day.

(b) ARMY.—(1) Chapter 401 of title 10, United States Code, is amended by adding after section 4319, as added by section 521(a)(1), the following new section:

''§ 4320. Recruit basic training: privacy

''The Secretary of the Army shall require that access by drill sergeants and other training personnel to a barracks floor on which recruits are housed during basic training shall be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to drill sergeants and other training personnel who are of the same sex as the recruits housed on that floor.''.

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 4319, as added by section 521(a)(2), the following new item:

''4320. Recruit basic training: privacy.''.

(3) The Secretary of the Army shall implement section 4320 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999.

(c) NAVY.—(1) Chapter 602 of title 10, United States Code, as added by section 521(b)(1), is amended by adding at the end the following new section:

''§ 6932. Recruit basic training: privacy

''The Secretary of the Navy shall require that access by recruit division commanders and other training personnel to a barracks floor on which Navy recruits are housed during basic training shall be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to recruit division commanders and other training personnel who are of the same sex as the recruits housed on that floor.''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''6932. Recruit basic training: privacy.''.

(3) The Secretary of the Navy shall implement section 6932 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999.

(d) AIR FORCE.—(1) Chapter 901 of title 10, United States Code, is amended by adding after section 9319, as added by section 521(c)(1), the following new section:

''§ 9320. Recruit basic training: privacy

''The Secretary of the Air Force shall require that access by drill sergeants and other training personnel to a dormitory floor on which recruits are housed during basic training shall be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to drill sergeants and other training personnel who are of the same sex as the recruits housed on that floor.''.

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 9312, as added by section 521(c)(2), the following new item:

''9320. Recruit basic training: privacy.''.

(3) The Secretary of the Air Force shall implement section 9320 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999.

SEC. 523. EXTENSION OF REPORTING DATES FOR COMMISSION ON MILITARY TRAINING AND GENDER-RELATED ISSUES.

(a) FIRST REPORT.—Subsection (e)(1) of section 562 of the National Defense Authorization

Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1754) is amended by striking out ''April 15, 1998'' and inserting in lieu thereof ''October 15, 1998''.

(b) FINAL REPORT.—Subsection (e)(2) of such section is amended by striking out ''September 16, 1998'' and inserting in lieu thereof ''March 15, 1999''.

SEC. 524. IMPROVED OVERSIGHT OF INNOVATIVE READINESS TRAINING.

(a) IN GENERAL.—Section 2012 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(j) OVERSIGHT AND COST ACCOUNTING.—The Secretary of Defense shall establish a program to improve the oversight and cost accounting of training projects conducted in accordance with this section. The program shall include measures to accomplish the following:

''(1) Ensure that each project that is proposed to be conducted in accordance with this section (regardless of whether additional funding from the Secretary of Defense is sought) is requested in writing, reviewed for full compliance with this section, and approved in advance of initiation by the Secretary of the military department concerned and, in the case of a project that seeks additional funding from the Secretary of Defense, by the Secretary of Defense.

''(2) Ensure that each project that is conducted in accordance with this section is required to provide, within a specified period following completion of the project, an after-action report to the Secretary of Defense.

''(3) Require that each application for a project to be conducted in accordance with this section include an analysis and certification that the proposed project would not result in a significant increase in the cost of training (as determined in accordance with procedures prescribed by the Secretary of Defense).

''(4) Determine the total program cost for each project, including both those costs that are borne by the military departments from their own accounts and those costs that are borne by defense-wide accounts.

''(5) Provide for oversight of project execution to ensure that a training project under this section is carried out in accordance with the proposal for that project as approved.''.

(b) IMPLEMENTATION.—The Secretary of Defense may not initiate any project under section 2012 of title 10, United States Code, after October 1, 1998, until the program required by subsection (i) of that section (as added by subsection (a)) has been established.

Subtitle D—Decorations, Awards, and Commendations

SEC. 531. STUDY OF NEW DECORATIONS FOR INJURY OR DEATH IN LINE OF DUTY.

(a) DETERMINATION OF CRITERIA FOR NEW DECORATION.—(1) The Secretary of Defense shall determine the appropriate name, policy, award criteria, and design for two possible new decorations.

(2) The first such decoration would, if implemented, be awarded to members of the Armed Forces who, while serving under competent authority in any capacity with the Armed Forces, are killed or injured in the line of duty as a result of noncombat circumstances occurring—

(A) as a result of an international terrorist attack against the United States or a foreign nation friendly to the United States;

(B) while engaged in, training for, or traveling to or from a peacetime or contingency operation; or

(C) while engaged in, training for, or traveling to or from service outside the territory of the United States as part of a peacekeeping force.

(3) The second such decoration would, if implemented, be awarded to civilian nationals of the United States who, while serving under competent authority in any capacity with the Armed Forces, are killed or injured in the line of duty under circumstances which, if they were members of the Armed Forces, would qualify them for award of the Purple Heart or the medal described in paragraph (2).

(b) LIMITATION ON IMPLEMENTATION.—Any such decoration may only be implemented as provided by a law enacted after the date of the enactment of this Act.

(c) RECOMMENDATION TO CONGRESS.—Not later than July 31, 1999, the Secretary shall submit to Congress a legislative proposal that would, if enacted, establish the new decorations developed pursuant to subsection (a). The Secretary shall include with that proposal the Secretary's recommendation concerning the need for, and propriety of, each of the decorations.

(d) COORDINATION.—The Secretary shall carry out this section in coordination with the Secretaries of the military departments and the Secretary of Transportation with regard to the Coast Guard.

SEC. 532. WAIVER OF TIME LIMITATIONS FOR AWARD OF CERTAIN DECORATIONS TO SPECIFIED PERSONS.

(a) WAIVER OF TIME LIMITATION.—Any limitation established by law or policy for the time within which a recommendation for the award of a military decoration or award must be submitted shall not apply in the case of awards of decorations described in subsection (b), the award of each such decoration having been determined by the Secretary of the military department concerned to be warranted in accordance with section 1130 of title 10, United States Code.

(b) DISTINGUISHED FLYING CROSS.—Subsection (a) applies to awards of the Distinguished Flying Cross for service during World War II or Korea (including multiple awards to the same individual) in the case of each individual concerning whom the Secretary of the Navy (or an officer of the Navy acting on behalf of the Secretary) submitted to the Committee on National Security of the House of Representatives and the Committee on Armed Services of the Senate, before the date of the enactment of this Act, a notice as provided in section 1130(b) of title 10, United States Code, that the award of the Distinguished Flying Cross to that individual is warranted and that a waiver of time restrictions prescribed by law for recommendation for such award is recommended.

SEC. 533. COMMENDATION OF THE NAVY AND MARINE CORPS PERSONNEL WHO SERVED IN THE UNITED STATES NAVY ASIATIC FLEET FROM 1910–1942.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States established the Asiatic Fleet of the Navy in 1910 to protect American nationals, policies, and possessions in the Far East.

(2) The sailors and Marines of the Asiatic Fleet ensured the safety of United States citizens and foreign nationals, and provided humanitarian assistance in that region during the Chinese civil war, the Yangtze Flood of 1931, and the outbreak of Sino-Japanese hostilities.

(3) In 1940, due to deteriorating political relations and increasing tensions between the United States and Japan, a reinforced Asiatic Fleet began concentrating on the defense of the Philippines and engaged in extensive training to ensure maximum operational readiness for any eventuality.

(4) Following the declaration of war against Japan in December 1941, the warships, submarines, and aircraft of the Asiatic Fleet singly or in task forces courageously fought many battles against a superior Japanese armada.

(5) The Asiatic Fleet directly suffered the loss of 22 vessels, 1,826 men killed or missing in action, and 518 men captured and imprisoned under the worst of conditions, with many of them dying while held as prisoners of war.

(b) CONGRESSIONAL COMMENDATION.—Congress—

(1) commends the Navy and Marine Corps personnel who served in the Asiatic Fleet of the United States Navy between 1910 and 1942; and

(2) honors those who gave their lives in the line of duty while serving in the Asiatic Fleet.

SEC. 534. APPRECIATION FOR SERVICE DURING WORLD WAR I AND WORLD WAR II BY MEMBERS OF THE NAVY ASSIGNED ON BOARD MERCHANT SHIPS AS THE NAVAL ARMED GUARD SERVICE.

(a) FINDINGS.—Congress makes the following findings:

(1) The Navy established a special force during both World War I and World War II, known as the Naval Armed Guard Service, to protect merchant ships of the United States from enemy attack by stationing members of the Navy and weapons on board those ships.

(2) Members of the Naval Armed Guard Service served on 6,236 merchant ships during World War II, of which 710 were sunk by enemy action.

(3) Over 144,900 members of the Navy served in the Naval Armed Guard Service during World War II as officers, gun crewmen, signalmen, and radiomen, of whom 1,810 were killed in action.

(4) The efforts of the members of the Naval Armed Guard Service played a significant role in the safe passage of United States merchant ships to their destinations in the Soviet Union and various locations in western Europe and the Pacific Theater.

(5) The efforts of the members of the Navy who served in the Naval Armed Guard Service have been largely overlooked due to the rapid disbanding of the service after World War II and lack of adequate records.

(6) Recognition of the service of the naval personnel who served in the Naval Armed Guard Service is highly warranted and long overdue.

(b) SENSE OF CONGRESS.—Congress expresses its appreciation, and the appreciation of the American people, for the dedicated service performed during World War I and World War II by members of the Navy assigned as gun crews on board merchant ships as part of the Naval Armed Guard Service.

SEC. 535. SENSE OF CONGRESS REGARDING THE HEROISM, SACRIFICE, AND SERVICE OF THE MILITARY FORCES OF SOUTH VIETNAM AND OTHER NATIONS IN CONNECTION WITH THE UNITED STATES ARMED FORCES DURING THE VIETNAM CONFLICT.

(a) FINDINGS.—Congress finds the following:

(1) South Vietnam, Australia, South Korea, Thailand, New Zealand, and the Philippines contributed military forces, together with the United States, during military operations conducted in Southeast Asia during the Vietnam conflict.

(2) The contributions of the combat forces from these nations continued through long years of armed conflict.

(3) As a result, in addition to the United States casualties exceeding 210,000, this willingness to participate in the Vietnam conflict resulted in the death, and wounding of more than 1,000,000 military personnel from South Vietnam and 16,000 from other allied nations.

(4) The service of the Vietnamese and other allied nations was repeatedly marked by exceptional heroism and sacrifice, with particularly noteworthy contributions being made by the Vietnamese airborne, commando, infantry and ranger units, the Republic of Korea marines, the Capital and White Horse divisions, the Royal Thai Army Black Panther Division, the Royal Australian Regiment, the New Zealand ''V'' force, and the 1st Philippine Civic Action Group.

(b) SENSE OF CONGRESS.—Congress recognizes and honors the members and former members of the military forces of South Vietnam, the Republic of Korea, Thailand, Australia, New Zealand, and the Philippines for their heroism, sacrifice and service in connection with United States Armed Forces during the Vietnam conflict.

SEC. 536. SENSE OF CONGRESS REGARDING THE HEROISM, SACRIFICE, AND SERVICE OF FORMER SOUTH VIETNAMESE COMMANDOS IN CONNECTION WITH UNITED STATES ARMED FORCES DURING THE VIETNAM CONFLICT.

(a) FINDINGS.—Congress finds the following:

(1) South Vietnamese commandos were recruited by the United States as part of OPLAN 34A or its predecessor or OPLAN 35 from 1961 to 1970.

(2) The commandos conducted covert operations in North Vietnam during the Vietnam conflict.

(3) Many of the commandos were captured and imprisoned by North Vietnamese forces, some for as long as 20 years.

(4) The commandos served and fought proudly during the Vietnam conflict.

(5) Many of the commandos lost their lives serving in operations conducted by the United States during the Vietnam conflict.

(6) Many of the Vietnamese commandos now reside in the United States.

(b) SENSE OF CONGRESS—Congress recognizes and honors the former South Vietnamese commandos for their heroism, sacrifice, and service in connection with United States armed forces during the Vietnam conflict.

Subtitle E—Administration of Agencies Responsible for Review and Correction of Military Records

SEC. 541. PERSONNEL FREEZE.

(a) LIMITATION.—During fiscal years 1999, 2000, and 2001, the Secretary of a military department may not carry out any reduction in the number of military and civilian personnel assigned to duty with the service review agency for that military department below the baseline number for that agency until—

(1) the Secretary submits to Congress a report that describes the reduction proposed to be made, provides the Secretary's rationale for that reduction, and specifies the number of such personnel that would be assigned to duty with that agency after the reduction; and

(2) a period of 90 days has elapsed after the date on which such report is submitted.

(b) BASELINE NUMBER.—The baseline number for a service review agency under this section is—

(1) for purposes of the first report with respect to a service review agency under this section, the number of military and civilian personnel assigned to duty with that agency as of October 1, 1997; and

(2) for purposes of any subsequent report with respect to a service review agency under this section, the number of such personnel specified in the most recent report with respect to that agency under this section.

(c) SERVICE REVIEW AGENCY DEFINED.—In this section, the term 'service review agency' means—

(1) with respect to the Department of the Army, the Army Review Boards Agency;

(2) with respect to the Department of the Navy, the Board for Correction of Naval Records; and

(3) with respect to the Department of the Air Force, the Air Force Review Boards Agency.

SEC. 542. PROFESSIONAL STAFF.

(a) IN GENERAL.—(1) Chapter 79 of title 10, United States Code, is amended by adding at the end the following new section:

"§1555. Professional staff

''(a) The Secretary of each military department shall assign to the staff of the service review agency of that military department at least one attorney and at least one physician. Such assignments shall be made on a permanent, full-time basis and may be made from members of the armed forces or civilian employees.

''(b) Personnel assigned pursuant to subsection (a)—

''(1) shall work under the supervision of the director or executive director (as the case may be) of the service review agency; and

''(2) shall be assigned duties as advisers to the director or executive director or other staff members on legal and medical matters, respectively, that are being considered by the agency.

''(c) In this section, the term 'service review agency' means—

''(1) with respect to the Department of the Army, the Army Review Boards Agency;

''(2) with respect to the Department of the Navy, the Board for Correction of Naval Records; and

''(3) with respect to the Department of the Air Force, the Air Force Review Boards Agency.''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''1555. Professional staff.''.

(b) EFFECTIVE DATE.—Section 1555 of title 10, United States Code, as added by subsection (a), shall take effect 180 days after the date of the enactment of this Act.

SEC. 543. EX PARTE COMMUNICATIONS.

(a) IN GENERAL.—(1) Chapter 79 of title 10, United States Code, is amended by adding after section 1555, as added by section 542(a)(1), the following new section:

"§1556. Ex parte communications prohibited

''(a) IN GENERAL.—The Secretary of each military department shall ensure that an applicant seeking corrective action by the Army Review Boards Agency, the Air Force Review Boards Agency, or the Board for Correction of Naval Records, as the case may be, is provided a copy of all correspondence and communications (including summaries of verbal communications) to or from the agency or board, or a member of the staff of the agency or board, with an entity or person outside the agency or board that pertain directly to the applicant's case or have a material effect on the applicant's case.

''(b) EXCEPTIONS.—Subsection (a) does not apply to the following:

''(1) Classified information.

''(2) Information the release of which is otherwise prohibited by law or regulation.

''(3) Any record previously provided to the applicant or known to be possessed by the applicant.

''(4) Any correspondence that is purely administrative in nature.

''(5) Any military record that is (or may be) provided to the applicant by the Secretary of the military department or other source.''.

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to 1555, as added by section 542(a)(2), the following new item:

''1556. Ex parte communications prohibited.''.

(b) EFFECTIVE DATE.—Section 1556 of title 10, United States Code, as added by subsection (a), shall apply with respect to correspondence and communications made 60 days or more after the date of the enactment of this Act.

SEC. 544. TIMELINESS STANDARDS.

(a) IN GENERAL.—Chapter 79 of title 10, United States Code, is amended by adding after section 1556, as added by section 543(a)(1), the following new section:

"§1557. Timeliness standards for disposition of cases before Corrections Boards

''(a) TEN-MONTH CLEARANCE PERCENTAGE.—Of the cases accepted for consideration by a Corrections Board during a period specified in the following table, the percentage on which final action must be completed within 10 months of receipt (other than for those cases considered suitable for administrative correction) is as follows:

''For cases accepted during—	*The percentage on which final action must be completed within 10 months of receipt is—*
the period of fiscal years 2001 and 2002.	*50*
the period of fiscal years 2003 and 2004.	*60*
the period of fiscal years 2005, 2006, and 2007.	*70*
the period of fiscal years 2008, 2009, and 2010.	*80*
the period of any fiscal year after fiscal year 2010.	*90.*

''(b) CLEARANCE DEADLINE FOR ALL CASES.—Effective October 1, 2002, final action on all cases accepted for consideration by a Corrections Board (other than those cases considered suitable for administrative correction) shall be completed within 18 months of receipt.

''(c) WAIVER AUTHORITY.—The Secretary of the military department concerned may exclude an individual case from the timeliness standards prescribed in subsections (a) and (b) if the Secretary determines that the case warrants a longer period of consideration. The authority of the Secretary of a military department under this subsection may not be delegated.

''(d) REPORTS ON FAILURE TO MEET TIMELINESS STANDARDS.—The Secretary of the military department concerned shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report not later than June 1 following any fiscal year during which the Corrections Board of that Secretary's military department was unable to meet the timeliness standards in subsections (a) and (b). The report shall specify the reasons why the standard could not be met and the corrective actions initiated to ensure compliance in the future. The report shall also specify the number of waivers granted under subsection (c) during that fiscal year.

''(e) CORRECTIONS BOARD DEFINED.—In this section, the term 'Corrections Board' means—

''(1) with respect to the Department of the Army, the Army Board for Correction of Military Records;

''(2) with respect to the Department of the Navy, the Board for Correction of Naval Records; and

''(3) with respect to the Department of the Air Force, the Air Force Board for Correction of Military Records.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 1556, as added by section 543(a)(2), the following new item:

''1557. Timeliness standards for disposition of cases before Corrections Boards.''.

Subtitle F—Other Matters

SEC. 551. ONE-YEAR EXTENSION OF CERTAIN FORCE DRAWDOWN TRANSITION AUTHORITIES RELATING TO PERSONNEL MANAGEMENT AND BENEFITS.

(a) EARLY RETIREMENT AUTHORITY FOR ACTIVE DUTY MEMBERS.—Section 4403(i) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 10 U.S.C. 1293 note) is amended by striking out ''October 1, 1999'' and inserting in lieu thereof ''October 1, 2000''.

(b) SSB AND VSI.—Sections 1174a(h) and 1175(d)(3) of title 10, United States Code, are amended by striking out ''September 30, 1999'' and inserting in lieu thereof ''September 30, 2000''.

(c) SELECTIVE EARLY RETIREMENT BOARDS.—Section 638a(a) of such title is amended by striking out ''during the nine-year period beginning on October 1, 1990'' and inserting in lieu thereof ''during the period beginning on October 1, 1990, and ending on September 30, 2000''.

(d) TIME-IN-GRADE REQUIREMENT FOR RETENTION OF GRADE UPON VOLUNTARY RETIREMENT.—Section 1370(a)(2)(A) of such title is

amended by striking out ''during the nine-year period beginning on October 1, 1990'' and inserting in lieu thereof ''during the period beginning on October 1, 1990, and ending on September 30, 2000''.

(e) LENGTH OF COMMISSIONED SERVICE FOR VOLUNTARY RETIREMENT AS AN OFFICER.—Sections 3911(b), 6323(a)(2), and 8911(b) of such title are amended by striking out ''during the nine-year period beginning on October 1, 1990'' and inserting in lieu thereof ''during the period beginning on October 1, 1990, and ending on September 30, 2000''.

(f) RETIREMENT OF CERTAIN LIMITED DUTY OFFICERS OF THE NAVY AND MARINE CORPS.—(1) Sections 633 and 634 of such title are amended by striking out ''October 1, 1999'' in the last sentence and inserting in lieu thereof ''October 1, 2000''.

(2) Section 6383 of such title is amended—

(A) in subsection (a)(5), by striking out ''October 1, 1999'' and inserting in lieu thereof ''October 1, 2000''; and

(B) in subsection (k), by striking out ''October 1, 1999'' in the last sentence and inserting in lieu thereof ''October 1, 2000''.

(g) TRAVEL AND TRANSPORTATION ALLOWANCES AND STORAGE OF BAGGAGE AND HOUSEHOLD EFFECTS FOR CERTAIN MEMBERS BEING INVOLUNTARILY SEPARATED.—Sections 404(c)(1)(C), 404(f)(2)(B)(v), 406(a)(2)(B)(v), and 406(g)(1)(C) of title 37, United States Code, and section 503(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 37 U.S.C. 406 note) are amended by striking out ''during the nine-year period beginning on October 1, 1990'' and inserting in lieu thereof ''during the period beginning on October 1, 1990, and ending on September 30, 2000''.

(h) EDUCATIONAL LEAVE RELATING TO CONTINUING PUBLIC AND COMMUNITY SERVICE.—Section 4463(f) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 10 U.S.C. 1143a note) is amended by striking out ''September 30, 1999'' and inserting in lieu thereof ''September 30, 2000''.

(i) TRANSITIONAL HEALTH, COMMISSARY, AND FAMILY HOUSING BENEFITS.—

(1) HEALTH CARE.—Section 1145 of title 10, United States Code, is amended—

(A) in subsections (a)(1) and (c)(1), by striking out ''during the nine-year period beginning on October 1, 1990'' and inserting in lieu thereof ''during the period beginning on October 1, 1990, and ending on September 30, 2000''; and

(B) in subsection (e), by striking out ''during the five-year period beginning on October 1, 1994'' and inserting in lieu thereof ''during the period beginning on October 1, 1994, and ending on September 30, 2000''.

(2) COMMISSARY AND EXCHANGE BENEFITS.—Section 1146 of such title is amended—

(A) by striking out ''during the nine-year period beginning on October 1, 1990'' and inserting in lieu thereof ''during the period beginning on October 1, 1990, and ending on September 30, 2000''; and

(B) by striking out ''during the five-year period beginning on October 1, 1994'' and inserting in lieu thereof ''during the period beginning on October 1, 1994, and ending on September 30, 2000''.

(3) USE OF MILITARY HOUSING.—Section 1147(a) of such title is amended—

(A) in paragraph (1), by striking out ''during the nine-year period beginning on October 1, 1990'' and inserting in lieu thereof ''during the period beginning on October 1, 1990, and ending on September 30, 2000''; and

(B) in paragraph (2), by striking out ''during the five-year period beginning on October 1, 1994'' and inserting in lieu thereof ''during the period beginning on October 1, 1994, and ending on September 30, 2000''.

(j) ENROLLMENT OF DEPENDENTS IN DEFENSE DEPENDENTS' EDUCATION SYSTEM.—Section 1407(c)(1) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 926(c)(1)) is amended by striking out ''during the nine-year period beginning on October 1, 1990'' and inserting in lieu thereof ''during the period beginning on October 1, 1990, and ending on September 30, 2000''.

(k) FORCE REDUCTION TRANSITION PERIOD DEFINITION.—Section 4411 of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 12681 note) is amended by striking out ''September 30, 1999'' and inserting in lieu thereof ''September 30, 2000''.

(l) TEMPORARY SPECIAL AUTHORITY FOR FORCE REDUCTION PERIOD RETIREMENTS.—Section 4416(b)(1) of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 12681 note) is amended by striking out ''October 1, 1999'' and inserting in lieu thereof ''October 1, 2000''.

(m) RETIRED PAY FOR NON-REGULAR SERVICE.—(1) Section 12731(f) of title 10, United States Code, is amended by striking out ''September 30, 1999'' and inserting in lieu thereof ''September 30, 2000''.

(2) Section 12731a of such title is amended in subsections (a)(1)(B) and (b), by striking out ''October 1, 1999'' and inserting in lieu thereof ''October 1, 2000''.

(n) AFFILIATION WITH GUARD AND RESERVE UNITS; WAIVER OF CERTAIN LIMITATIONS.—Section 1150(a) of such title is amended by striking out ''during the nine-year period beginning on October 1, 1990'' and inserting in lieu thereof ''during the period beginning on October 1, 1990, and ending on September 30, 2000''.

(o) RESERVE MONTGOMERY GI BILL.—Section 16133(b)(1)(B) of such title is amended by striking out ''September 30, 1999'' and inserting in lieu thereof ''September 30, 2000''.

SEC. 552. LEAVE WITHOUT PAY FOR ACADEMY CADETS AND MIDSHIPMEN.

(a) AUTHORITY FOR LEAVE WITHOUT PAY.—Section 702 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(c)(1) The Secretary concerned may place an academy cadet or midshipman on involuntary leave without pay if, under regulations prescribed by the Secretary concerned, the Superintendent of the Academy at which the cadet or midshipman is admitted—

''(A) has recommended that the cadet or midshipman be dismissed or discharged;

''(B) has directed the cadet or midshipman return to the Academy to repeat an academic semester or year;

''(C) has otherwise recommended to the Secretary for good cause that the cadet or midshipman be placed on involuntary leave without pay.

''(2) In this subsection, the term 'academy cadet or midshipman' means—

''(A) a cadet of the United States Military Academy;

''(B) a midshipman of the United States Naval Academy;

''(C) a cadet of the United States Air Force Academy; or

''(D) a cadet of the United States Coast Guard Academy.''.

(b) EFFECTIVE DATE.—Subsection (c) of section 702 of title 10, United States Code, as added by subsection (a), shall apply with respect to academy cadets and midshipmen (as defined in that subsection) who are placed on involuntary leave after the date of the enactment of this Act.

SEC. 553. PROVISION FOR RECOVERY, CARE, AND DISPOSITION OF THE REMAINS OF ALL MEDICALLY RETIRED MEMBERS.

(a) IN GENERAL.—Section 1481(a) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out '', or member of an armed force without component,''; and

(2) in paragraph (7)—

(A) by striking out ''United States''; and

(B) by striking out ''for a period of more than 30 days,''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a)(2) apply with respect to persons dying on or after the date of the enactment of this Act.

SEC. 554. CONTINUED ELIGIBILITY UNDER VOLUNTARY SEPARATION INCENTIVE PROGRAM FOR MEMBERS WHO INVOLUNTARILY LOSE MEMBERSHIP IN A RESERVE COMPONENT.

(a) CONTINUED ELIGIBILITY.—Section 1175(a) of title 10, United States Code, is amended by inserting before the period at the end '', or for the period described in section 1175(e)(1) of this section if the member becomes ineligible for retention in an active or inactive status in a reserve component because of age, years of service, failure to select for promotion, or medical disqualification, so long as such ineligibility does not result from deliberate action on the part of the member with the intent to avoid retention in an active or inactive status in a reserve component.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to any person provided a voluntary separation incentive under section 1175 of title 10, United States Code (whether before, on, or after the date of the enactment of this Act).

SEC. 555. DEFINITION OF FINANCIAL INSTITUTION FOR DIRECT DEPOSIT OF PAY.

(a) SERVICEMEMBERS REIMBURSEMENT FOR EXPENSES DUE TO GOVERNMENT ERROR.—Paragraph (1) of section 1053(d) of title 10, United States Code, is amended to read as follows:

''(1) The term 'financial institution' means a bank, savings and loan association, or similar institution or a credit union chartered by the United States or a State.''.

(b) CIVILIAN EMPLOYEES REIMBURSEMENT FOR EXPENSES DUE TO GOVERNMENT ERROR.—Paragraph (1) of section 1594(d) of such title is amended to read as follows:

''(1) The term 'financial institution' means a bank, savings and loan association, or similar institution or a credit union chartered by the United States or a State.''.

SEC. 556. INCREASE IN MAXIMUM AMOUNT FOR COLLEGE FUND PROGRAM.

(a) INCREASE IN MAXIMUM RATE FOR ACTIVE COMPONENT MONTGOMERY GI BILL KICKER.—Section 3015(d) of title 38, United States Code, is amended—

(1) by inserting '', at the time the individual first becomes a member of the Armed Forces,'' after ''Secretary of Defense, may''; and

(2) by striking out ''$400'' and all that follows through ''that date'' and inserting in lieu thereof ''$950 per month''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1999, and shall apply with respect to individuals who first become members of the Armed Forces on or after that date.

SEC. 557. CENTRAL IDENTIFICATION LABORATORY, HAWAII.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Central Identification Laboratory, Hawaii, of the Department of the Army is an important element of the Department of Defense and is critical to the full accounting of members of the Armed Forces who have been classified as POW/MIAs or are otherwise unaccounted for.

(b) REQUIRED STAFFING LEVEL.—The Secretary of Defense shall provide sufficient personnel to fill all authorized personnel positions of the Central Identification Laboratory, Hawaii, Department of the Army. Those personnel shall be drawn from members of the Army, Navy, Air Force, and Marine Corps and from civilian personnel, as appropriate, considering the proportion of POW/MIAs from each service.

(c) JOINT MANNING PLAN.—The Secretary of Defense shall develop and implement, not later than March 31, 2000, a joint manning plan to ensure the appropriate participation of the four services in the staffing of the Central Identification Laboratory, Hawaii, as required by subsection (b).

(d) LIMITATION ON REDUCTIONS.—The Secretary of the Army may not carry out any personnel reductions (in authorized or assigned personnel) at the Central Identification Laboratory, Hawaii, until the joint manning plan required by subsection (c) is implemented.

SEC. 558. HONOR GUARD DETAILS AT FUNERALS OF VETERANS.

(a) IN GENERAL.—(1) Chapter 75 of title 10, United States Code, is amended by adding at the end the following new section:

"§1491. Honor guard details at funerals of veterans

''(a) AVAILABILITY.—The Secretary of a military department shall, upon request, provide an honor guard detail (or ensure that an honor guard detail is provided) for the funeral of any veteran.

''(b) COMPOSITION OF HONOR GUARD DETAILS.—The Secretary of each military department shall ensure that an honor guard detail for the funeral of a veteran consists of not less than three persons and (unless a bugler is part of the detail) has the capability to play a recorded version of Taps.

''(c) PERSONS FORMING HONOR GUARDS.—An honor guard detail may consist of members of the armed forces or members of veterans organizations or other organizations approved for purposes of this section under regulations prescribed by the Secretary of Defense. The Secretary of a military department may provide transportation, or reimbursement for transportation, and expenses for a person who participates in an honor guard detail under this section and is not a member of the armed forces or an employee of the United States.

''(d) REGULATIONS.—The Secretary of Defense shall by regulation establish a system for selection of units of the armed forces and other organizations to provide honor guard details. The system shall place an emphasis on balancing the funeral detail workload among the units and organizations providing honor guard details in an equitable manner as they are able to respond to requests for such details in terms of geographic proximity and available resources. The Secretary shall provide in such regulations that the armed force in which a veteran served shall not be considered to be a factor when selecting the military unit or other organization to provide an honor guard detail for the funeral of the veteran.

''(e) ANNUAL REPORT.—The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report not later than January 31 of each year beginning with 2001 and ending with 2005 on the experience of the Department of Defense under this section. Each such report shall provide data on the number of funerals supported under this section, cost for that support, shown by manpower and other cost factors, and the number and costs of funerals supported by each participating organization. The data in the report shall be presented in a standard format, regardless of military department or other organization.

''(f) VETERAN DEFINED.—In this section, the term 'veteran' has the meaning given that term in section 101(2) of title 38.''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''1491. Honor guard details at funerals of veterans.''.

(b) TREATMENT OF PERFORMANCE OF HONOR GUARD FUNCTIONS BY RESERVES.—(1) Chapter 1215 of title 10, United States Code, is amended by adding at the end the following new section:

"§12552. Funeral honor guard functions: prohibition of treatment as drill or training

''Performance by a Reserve of honor guard functions at the funeral of a veteran may not be considered to be a period of drill or training otherwise required.''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''12552. Funeral honor guard functions: prohibition of treatment as drill or training.''.

(c) REPEAL OF LIMITATION ON AVAILABILITY OF FUNDS FOR HONOR GUARD FUNCTIONS BY NATIONAL GUARD.—Section 114 of title 32, United States Code, is amended—

(1) by striking out ''(a)''; and

(2) by striking out subsection (b).

(d) APPLICABILITY.—The amendments made by this section shall apply to burials of veterans that occur on or after October 1, 1999.

(e) STUDY.—The Secretary of Defense, in coordination with the Secretary of Veterans Affairs, shall study alternative means for the provision of honor guard details at funerals of veterans. Not later than March 31, 1999, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report setting forth the results of the study and the Secretary's views and recommendations.

(f) CONSULTATION WITH VETERANS SERVICE ORGANIZATIONS.—Before prescribing the initial regulations under section 1491 of title 10, United States Code, as added by subsection (a), the Secretary of Defense shall consult with veterans service organizations to determine the views of those organizations regarding methods for providing honor guard details at funerals for veterans, suggestions for organizing the system to provide those details, and estimates of the resources that those organizations could provide for honor guard details for veterans.

SEC. 559. APPLICABILITY TO ALL PERSONS IN CHAIN OF COMMAND OF POLICY REQUIRING EXEMPLARY CONDUCT BY COMMANDING OFFICERS AND OTHERS IN AUTHORITY IN THE ARMED FORCES.

(a) IN GENERAL.—(1) Chapter 3 of title 10, United States Code, is amended by inserting after section 121 the following new section:

"§121a. Requirement of exemplary conduct by civilians in chain of command

''The President, as Commander in Chief, and the Secretary of Defense are required (in the same manner that commanding officers and others in authority in the Armed Forces are required)—

''(1) to show in themselves a good example of virtue, honor, and patriotism and to subordinate themselves to those ideals;

''(2) to be vigilant in inspecting the conduct of all persons who are placed under their command;

''(3) to guard against and to put an end to all dissolute and immoral practices and to correct, according to the laws and regulations of the armed forces, all persons who are guilty of them; and

''(4) to take all necessary and proper measures, under the laws, regulations, and customs of the armed forces, to promote and safeguard the morale, the physical well-being, and the general welfare of the officers and enlisted persons under their command or charge.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 121 the following new item:

''121a. Requirement of exemplary conduct by civilians in chain of command.''.

SEC. 560. REPORT ON PRISONERS TRANSFERRED FROM UNITED STATES DISCIPLINARY BARRACKS, FORT LEAVENWORTH, KANSAS, TO FEDERAL BUREAU OF PRISONS.

(a) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report, to be prepared by the General Counsel of the Department of Defense, concerning the decision of the Secretary of the Army in 1994 to transfer approximately 500 prisoners from the United States Disciplinary Barracks, Fort Leavenworth, Kansas, to the Federal Bureau of Prisons.

(b) MATTERS TO BE INCLUDED.—The Secretary shall include in the report the following:

(1) A description of the basis for the selection of prisoners to be transferred, particularly in light of the fact that many of the prisoners transferred are minimum or medium security prisoners, who are considered to have the best chance for rehabilitation, and whether the transfer of those prisoners indicates a change in Department of Defense policy regarding the rehabilitation of military prisoners.

(2) A comparison of the historical recidivism rates of prisoners released from the United States Disciplinary Barracks and the Federal Bureau of Prisons, together with a description of any plans of the Army to track the parole and recidivism rates of prisoners transferred to the Federal Bureau of Prisons and whether it has tracked those factors for previous transferees.

(3) A description of the projected future flow of prisoners into the new United States Disciplinary Barracks being constructed at Fort Leavenworth, Kansas, and whether the Secretary of the Army plans to automatically send new prisoners to the Federal Bureau of Prisons without serving at the United States Disciplinary Barracks if that Barracks is at capacity and whether the Memorandum of Understanding between the Federal Bureau of Prisons and the Army covers that possibility.

(4) A description of the cost of incarcerating a prisoner in the Federal Bureau of Prisons compared to the United States Disciplinary Barracks and the assessment of the Secretary as to the extent to which the transfer of prisoners to the Federal Bureau of Prisons by the Secretary of the Army is made in order to shift a budgetary burden.

(c) MONITORING.—During fiscal years 1999 through 2003, the Secretary of the Army shall track the parole and recidivism rates of prisoners transferred from the United States Disciplinary Barracks, Fort Leavenworth, Kansas, to the Federal Bureau of Prisons.

SEC. 561. REPORT ON PROCESS FOR SELECTION OF MEMBERS FOR SERVICE ON COURTS-MARTIAL.

(a) REPORT REQUIRED.—Not later than April 15, 1999, the Secretary of Defense shall submit to Congress a report on the method of selection of members of the Armed Forces to serve on courts-martial.

(b) MATTERS TO BE CONSIDERED.—In preparing the report, the Secretary shall—

(1) direct the Secretaries of the military departments to develop a plan for random selection of members of courts-martial , subject to the provisions relating to service on courts-martial specified in section 825(d)(2) of title 10, United States Code (article 25(d)(2) of the Uniform Code of Military Justice), as a possible replacement for the current system of selection by the convening authority; and

(2) obtain the views of the members of the committee referred to in section 946 of such title (known as the ''Code Committee'').

SEC. 562. STUDY OF REVISING THE TERM OF SERVICE OF MEMBERS OF THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES.

Not later than April 15, 1999, the Secretary of Defense shall submit to Congress a report on the desirability of revising the term of appointment of judges of the United States Court of Appeals for the Armed Forces so that the term of a judge on that court is for a period of 15 years or until the judge attains the age of 65, whichever is later. In preparing the report, the Secretary shall obtain the view of the members of the committee referred to in section 946 of title 10, United States Code, (known as the ''Code Committee'').

SEC. 563. STATUS OF CADETS AT THE MERCHANT MARINE ACADEMY.

(a) STATUS OF CADETS.—Any citizen of the United States appointed as a cadet at the United States Merchant Marine Academy shall be considered to be a member of the United States Naval Reserve.

(b) ELIGIBILITY.—The Secretary of Defense shall provide that cadets of the United States Merchant Marine Academy shall be issued an identification card (referred to as a ''military ID card'') and shall be entitled to all rights and privileges in accordance with the same eligibility criteria as apply to other members of the Ready Reserve of the reserve components of the Armed Forces.

(c) COORDINATION WITH SECRETARY OF TRANSPORTATION.—The Secretary of Defense shall carry out this section in coordination with the Secretary of Transportation.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

SEC. 601. INCREASE IN BASIC PAY FOR FISCAL YEAR 1999.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Except as provided in subsection (b), the adjustment, to become effective during fiscal year 1999, required by section 1009 of title 37, United States Code, in the rate of monthly basic pay authorized members of the uniformed services by section 203(a) of such title shall not be made.

(b) INCREASE IN BASIC PAY.—Effective on January 1, 1999, the rates of basic pay of members of the uniformed services shall be increased by the greater of—

(1) 3.6 percent; or

(2) the percentage increase determined under subsection (c) of section 1009 of title 37, United States Code, by which the monthly basic pay of members would be adjusted under subsection (a) of that section on that date in the absence of subsection (a) of this section.

SEC. 602. BASIC ALLOWANCE FOR HOUSING OUTSIDE THE UNITED STATES.

(a) PAYMENT OF CERTAIN EXPENSES RELATED TO OVERSEAS HOUSING.—Section 403(c) of title 37, United States Code, is amended by adding at the end the following new paragraph:

''(3)(A) In the case of a member of the uniformed services authorized to receive an allowance under paragraph (1), the Secretary concerned may make a lump-sum payment to the member for required deposits and advance rent, and for expenses relating thereto, that are—

''(i) incurred by the member in occupying private housing outside of the United States; and

''(ii) authorized or approved under regulations prescribed by the Secretary concerned.

''(B) Expenses for which a member may be reimbursed under this paragraph may include losses relating to housing that are sustained by the member as a result of fluctuations in the relative value of the currencies of the United States and the foreign country in which the housing is located.

''(C) The Secretary concerned shall recoup the full amount of any deposit or advance rent payments made by the Secretary under subparagraph (A), including any gain resulting from currency fluctuations between the time of payment and the time of recoupment.''.

(b) CONFORMING AMENDMENT.—Section 405 of title 37, United States Code, is amended by striking out subsection (c).

(c) RETROACTIVE APPLICATION.—The reimbursement authority provided by section 403(c)(3)(B) of title 37, United States Code, as added by subsection (a), applies with respect to losses relating to housing that are sustained, on or after July 1, 1997, by a member of the uniformed services as a result of fluctuations in the relative value of the currencies of the United States and the foreign country in which the housing is located.

SEC. 603. BASIC ALLOWANCE FOR SUBSISTENCE FOR RESERVES.

(a) IN GENERAL.—Section 402 of title 37, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection:

''(e) SPECIAL RULE FOR CERTAIN ENLISTED RESERVE MEMBERS.—Unless entitled to basic pay under section 204 of this title, an enlisted member of a reserve component may receive, at the discretion of the Secretary concerned, rations in kind, or a part thereof, when the member's instruction or duty periods, as described in section 206(a) of this title, total at least eight hours in a calendar day. The Secretary concerned may provide an enlisted member who could be provided rations in kind under the preceding sentence with a commutation when rations in kind are not available.''.

(b) APPLICATION DURING TRANSITIONAL PERIOD.—Section 602(d)(1) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 37 U.S.C. 402 note) is amended by adding at the end the following new subparagraph:

''(D) SPECIAL RULE FOR CERTAIN ENLISTED RESERVE MEMBERS.—Unless entitled to basic pay under section 204 of title 37, United States Code, an enlisted member of a reserve component (as defined in section 101(24) of such title) may receive, at the discretion of the Secretary concerned (as defined in section 101(5) of such title), rations in kind, or a part thereof, when the member's instruction or duty periods (as described in section 206(a) of such title) total at least eight hours in a calendar day. The Secretary concerned may provide an enlisted member who could be provided rations in kind under the preceding sentence with a commutation when rations in kind are not available.''.

Subtitle B—Bonuses and Special and Incentive Pays

SEC. 611. ONE-YEAR EXTENSION OF CERTAIN BONUSES AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.

(a) SPECIAL PAY FOR HEALTH PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES.—Section 302g(f) of title 37, United States Code, is amended by striking out ''September 30, 1999'' and inserting in lieu thereof ''September 30, 2000''.

(b) SELECTED RESERVE REENLISTMENT BONUS.—Section 308b(f) of title 37, United States Code, is amended by striking out ''September 30, 1999'' and inserting in lieu thereof ''September 30, 2000''.

(c) SELECTED RESERVE ENLISTMENT BONUS.—Section 308c(e) of title 37, United States Code, is amended by striking out ''September 30, 1999'' and inserting in lieu thereof ''September 30, 2000''.

(d) SPECIAL PAY FOR ENLISTED MEMBERS ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.—Section 308d(c) of title 37, United States Code, is amended by striking out ''September 30, 1999'' and inserting in lieu thereof ''September 30, 2000''.

(e) SELECTED RESERVE AFFILIATION BONUS.—Section 308e(e) of title 37, United States Code, is amended by striking out ''September 30, 1999'' and inserting in lieu thereof ''September 30, 2000''.

(f) READY RESERVE ENLISTMENT AND REENLISTMENT BONUS.—Section 308h(g) of title 37, United States Code, is amended by striking out ''September 30, 1999'' and inserting in lieu thereof ''September 30, 2000''.

(g) PRIOR SERVICE ENLISTMENT BONUS.—Section 308i(f) of title 37, United States Code, is amended by striking out ''September 30, 1999'' and inserting in lieu thereof ''September 30, 2000''.

(h) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 16302(d) of title 10, United States Code, is amended by striking out ''October 1, 1999'' and inserting in lieu thereof ''October 1, 2000''.

SEC. 612. ONE-YEAR EXTENSION OF CERTAIN BONUSES AND SPECIAL PAY AUTHORITIES FOR NURSE OFFICER CANDIDATES, REGISTERED NURSES, AND NURSE ANESTHETISTS.

(a) NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking out ''September 30, 1999'' and inserting in lieu thereof ''September 30, 2000''.

(b) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of title 37, United States Code, is amended by striking out ''September 30, 1999'' and inserting in lieu thereof ''September 30, 2000''.

(c) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of title 37, United States Code, is amended by striking out ''September 30, 1999'' and inserting in lieu thereof ''September 30, 2000''.

SEC. 613. ONE-YEAR EXTENSION OF AUTHORITIES RELATING TO PAYMENT OF OTHER BONUSES AND SPECIAL PAYS.

(a) AVIATION OFFICER RETENTION BONUS.—Section 301b(a) of title 37, United States Code, is amended by striking out ''September 30, 1999,'' and inserting in lieu thereof ''September 30, 2000,''.

(b) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 308(g) of title 37, United States Code, is amended by striking out ''September 30, 1999'' and inserting in lieu thereof ''September 30, 2000''.

(c) ENLISTMENT BONUSES FOR MEMBERS WITH CRITICAL SKILLS.—Sections 308a(c) and 308f(c) of title 37, United States Code, are each amended by striking out ''September 30, 1999'' and inserting in lieu thereof ''September 30, 2000''.

(d) SPECIAL PAY FOR NUCLEAR QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section 312(e) of title 37, United States Code, is amended by striking out ''September 30, 1999'' and inserting in lieu thereof ''September 30, 2000''.

(e) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(c) of title 37, United States Code, is amended by striking out ''September 30, 1999'' and inserting in lieu thereof ''September 30, 2000''.

(f) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 312c(d) of title 37, United States Code, is amended by striking out ''October 1, 1999'' and inserting in lieu thereof ''October 1, 2000''.

SEC. 614. AVIATION CAREER INCENTIVE PAY AND AVIATION OFFICER RETENTION BONUS.

(a) DEFINITION OF AVIATION SERVICE.—(1) Section 301a(a)(6) of title 37, United States Code, is amended—

(A) by redesignating subparagraphs (A), (B), and (C) as subparagraphs (B), (C), and (D), respectively; and

(B) by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

''(A) The term 'aviation service' means service performed by an officer (except a flight surgeon or other medical officer) while holding an aeronautical rating or designation or while in training to receive an aeronautical rating or designation.''.

(2) Section 301b(j) of such title is amended by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

''(1) The term 'aviation service' means service performed by an officer (except a flight surgeon or other medical officer) while holding an aeronautical rating or designation or while in training to receive an aeronautical rating or designation.''.

(b) AMOUNT OF INCENTIVE PAY.—Subsection (b) of section 301a of such title is amended to read as follows:

''(b)(1) A member who satisfies the requirements described in subsection (a) is entitled to monthly incentive pay as follows:

''Years of aviation service (including flight training) as an officer:	Monthly rate
2 or less	$125
Over 2	$156
Over 3	$188
Over 4	$206
Over 6	$650
Over 14	$840
Over 22	$585
Over 23	$495
Over 24	$385
Over 25	$250

''(2) An officer in a pay grade above O–6 is entitled, until the officer completes 25 years of aviation service, to be paid at the rates set forth in the table in paragraph (1), except that—

''(A) an officer in pay grade O–7 may not be paid at a rate greater than $200 a month; and

''(B) an officer in pay grade O–8 or above may not be paid at a rate greater than $206 a month.

''(3) For a warrant officer with over 22, 23, 24, or 25 years of aviation service who is qualified under subsection (a), the rate prescribed in the table in paragraph (1) for officers with over 14 years of aviation service shall continue to apply to the warrant officer.''.

(c) REFERENCES TO AVIATION SERVICE.—(1) Section 301a of such title is further amended—

(A) in subsection (a)(4)—

(i) by striking out ''22 years of the officer's service as an officer'' and inserting in lieu thereof ''22 years of aviation service of the officer''; and

(ii) by striking out ''25 years of service as an officer (as computed under section 205 of this title)'' and inserting in lieu thereof ''25 years of aviation service''; and

(B) in subsection (d), by striking out ''subsection (b)(1) or (2), as the case may be, for the performance of that duty by a member of corresponding years of aviation or officer service, as appropriate,'' and inserting in lieu thereof ''subsection (b) for the performance of that duty by a member with corresponding years of aviation service''.

(2) Section 301b(b)(5) of such title is amended by striking out ''active duty'' and inserting in lieu thereof ''aviation service''.

(d) CONFORMING AMENDMENT.—Section 615 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1787) is repealed.

SEC. 615. SPECIAL PAY FOR DIVING DUTY.

Section 304(a) of title 37, United States Code, is amended—

(1) by inserting ''or'' at the end of paragraph (1);

(2) in paragraph (2), by striking out ''by frequent and regular dives; and'' and inserting in lieu thereof a period; and

(3) by striking out paragraph (3).

SEC. 616. SELECTIVE REENLISTMENT BONUS ELIGIBILITY FOR RESERVE MEMBERS PERFORMING ACTIVE GUARD AND RESERVE DUTY.

Section 308(a)(1)(D) of title 37, United States Code, is amended to read as follows:

''(D) reenlists or voluntarily extends the member's enlistment for a period of at least three years in a regular component, or in a reserve component if the member is performing active Guard and Reserve duty (as defined in section 101(d)(6) of title 10), of the service concerned;''.

SEC. 617. REMOVAL OF TEN PERCENT RESTRICTION ON SELECTIVE REENLISTMENT BONUSES.

Section 308(b) of title 37, United States Code, is amended—

(1) by striking out ''(1)'' after ''(b)''; and

(2) by striking out paragraph (2).

SEC. 618. INCREASE IN MAXIMUM AMOUNT OF ARMY ENLISTMENT BONUS.

Section 308f(a) of title 37, United States Code, is amended by striking out ''$4,000'' and inserting in lieu thereof ''$6,000''.

SEC. 619. EQUITABLE TREATMENT OF RESERVES ELIGIBLE FOR SPECIAL PAY FOR DUTY SUBJECT TO HOSTILE FIRE OR IMMINENT DANGER.

Section 310(b) of title 37, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)''; and

(2) by adding at the end the following new paragraph:

''(2) A member of a reserve component who is eligible for special pay under this section for a month shall receive the full amount authorized in subsection (a) for that month regardless of the number of days during that month on which the member satisfies the eligibility criteria specified in such subsection.''.

Subtitle C—Travel and Transportation Allowances

SEC. 631. EXCEPTION TO MAXIMUM WEIGHT ALLOWANCE FOR BAGGAGE AND HOUSEHOLD EFFECTS.

Section 406(b)(1)(D) of title 37, United States Code, is amended in the second sentence by inserting before the period the following: '', unless the additional weight allowance in excess of such maximum is intended to permit the shipping of consumables that cannot be reasonably obtained at the new station of the member''.

SEC. 632. TRAVEL AND TRANSPORTATION ALLOWANCES FOR TRAVEL PERFORMED BY MEMBERS IN CONNECTION WITH REST AND RECUPERATIVE LEAVE FROM OVERSEAS STATIONS.

(a) PROVISION OF TRANSPORTATION.—Section 411c of title 37, United States Code, is amended by striking out subsection (b) and inserting in lieu thereof the following new subsection:

''(b) When the transportation authorized by subsection (a) is provided by the Secretary concerned, the Secretary may use Government or commercial carriers. The Secretary concerned may limit the amount of payments made to members under subsection (a).''.

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

''§411c. Travel and transportation allowances: travel performed in connection with rest and recuperative leave from certain stations in foreign countries''.

(2) The item relating to such section in the table of sections at the beginning of chapter 7 of such title is amended to read as follows:

''411c. Travel and transportation allowances: travel performed in connection with rest and recuperative leave from certain stations in foreign countries.''.

SEC. 633. STORAGE OF BAGGAGE OF CERTAIN DEPENDENTS.

Section 430(b) of title 37, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)''; and

(2) by adding at the end the following new paragraph:

''(2) At the option of the member, in lieu of the transportation of baggage of a dependent child under paragraph (1) from the dependent's school in the continental United States, the Secretary concerned may pay or reimburse the member for costs incurred to store the baggage at or in the vicinity of the school during the dependent's annual trip between the school and the member's duty station. The amount of the payment or reimbursement may not exceed the cost that the Government would incur to transport the baggage.''.

Subtitle D—Retired Pay, Survivor Benefits, and Related Matters

SEC. 641. EFFECTIVE DATE OF FORMER SPOUSE SURVIVOR BENEFIT COVERAGE.

(a) COORDINATION OF PROVISIONS.—Section 1448(b)(3)(C) of title 10, United States Code, is amended by inserting after ''the Secretary concerned'' in the second sentence the following: '', except that, in the case of an election made by a person described in section 1450(f)(3)(B) of this title, such an election is effective on the first day of the first month which begins after the date of the court order or filing involved (in the same manner as provided under section 1450(f)(3)(D) of this title)''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to elections under section 1448(b)(3) of title 10, United States Code, that are received by the Secretary concerned on or after the date of the enactment of this Act.

Subtitle E—Other Matters

SEC. 651. DELETION OF CANAL ZONE FROM DEFINITION OF UNITED STATES POSSESSIONS FOR PURPOSES OF PAY AND ALLOWANCES.

Section 101(2) of title 37, United States Code, is amended by striking ''the Canal Zone,''.

SEC. 652. ACCOUNTING OF ADVANCE PAYMENTS.

Section 1006(e) of title 37, United States Code, is amended—

(1) by inserting ''(1)'' after ''(e)''; and

(2) by adding at the end the following new paragraph:

''(2) Obligations and expenditures incurred for an advance payment under this section may not be included in any determination of amounts available for obligation or expenditure except in the fiscal year in which the advance payment is ultimately earned and such obligations and expenditures shall be accounted for only in such fiscal year.''.

SEC. 653. REIMBURSEMENT OF RENTAL VEHICLE COSTS WHEN MOTOR VEHICLE TRANSPORTED AT GOVERNMENT EXPENSE IS LATE.

(a) TRANSPORTATION IN CONNECTION WITH CHANGE OF PERMANENT STATION.—Section 2634 of title 10, United States Code, is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection:

''(g) If a motor vehicle of a member (or a dependent of the member) that is transported at the expense of the United States under this section does not arrive at the authorized destination of the vehicle by the designated delivery date, the Secretary concerned shall reimburse the member for expenses incurred after that date to rent a motor vehicle for the member's use, or for the use of the dependent for whom the delayed vehicle was transported. However, the amount reimbursed shall not exceed $30 per day, and the rental period for which reimbursement may be provided shall expire after seven days or on the date on which the delayed vehicle finally arrives at the authorized destination (whichever occurs first).''.

(b) TRANSPORTATION IN CONNECTION WITH OTHER MOVES.—Section 406(h) of title 37, United States Code, is amended by adding at the end the following new paragraph:

''(3) If a motor vehicle of a member (or a dependent of the member) that is transported at the expense of the United States under this subsection does not arrive at the authorized destination of the vehicle by the designated delivery date, the Secretary concerned shall reimburse the member for expenses incurred after that date to rent a motor vehicle for the dependent's use. However, the amount reimbursed shall not exceed $30 per day, and the rental period for which reimbursement may be provided shall expire after seven days or on the date on which the delayed vehicle finally arrives at the authorized destination (whichever occurs first).''.

(c) TRANSPORTATION IN CONNECTION WITH DEPARTURE ALLOWANCES FOR DEPENDENTS.—Section 405a(b) of title 37, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)''; and

(2) by adding at the end the following new paragraph:

''(2) If a motor vehicle of a member (or a dependent of the member) that is transported at

the expense of the United States under paragraph (1) does not arrive at the authorized destination of the vehicle by the designated delivery date, the Secretary concerned shall reimburse the member for expenses incurred after that date to rent a motor vehicle for the dependent's use. However, the amount reimbursed shall not exceed $30 per day, and the rental period for which reimbursement may be provided shall expire after seven days or on the date on which the delayed vehicle finally arrives at the authorized destination (whichever occurs first).''.

(d) TRANSPORTATION IN CONNECTION WITH EFFECTS OF MISSING PERSONS.—Section 554 of title 37, United States Code, is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following new subsection:

''(i) If a motor vehicle of a member (or a dependent of the member) that is transported at the expense of the United States under this section does not arrive at the authorized destination of the vehicle by the designated delivery date, the Secretary concerned shall reimburse the dependent for expenses incurred after that date to rent a motor vehicle for the dependent's use. However, the amount reimbursed shall not exceed $30 per day, and the rental period for which reimbursement may be provided shall expire after seven days or on the date on which the delayed vehicle finally arrives at the authorized destination (whichever occurs first).''.

(e) APPLICATION OF AMENDMENTS.—Reimbursement for motor vehicle rental expenses may not be provided under the amendments made by this section until after the date on which the Secretary of Defense submits to Congress a report certifying that the Department of Defense has in place and operational a system to recover the cost to the Department of providing such reimbursement from commercial carriers that are responsible for the delay in the delivery of the motor vehicles of members of the Armed Forces and their dependents. The amendments shall apply with respect to rental expenses described in such amendments that are incurred on or after the date of the submission of the report.

SEC. 654. EDUCATION LOAN REPAYMENT PROGRAM FOR CERTAIN HEALTH PROFESSION OFFICERS SERVING IN SELECTED RESERVE.

(a) LOAN REPAYMENT AMOUNTS.—Section 16302(c) of title 10, United States Code, is amended—

(1) in paragraph (2), by striking out ''$3,000'' and inserting in lieu thereof ''$10,000''; and

(2) in paragraph (3), by striking out ''$20,000'' and inserting in lieu thereof ''$50,000''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1998.

TITLE VII—HEALTH CARE PROVISIONS

Subtitle A—Health Care Services

SEC. 701. EXPANSION OF DEPENDENT ELIGIBILITY UNDER RETIREE DENTAL PROGRAM.

(a) IN GENERAL.—Subsection (b) of section 1076c of title 10, United States Code, is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

''(4) Eligible dependents of a member described in paragraph (1) or (2) who is not enrolled in the plan and who—

''(A) is enrolled under section 1705 of title 38 to receive dental care from the Secretary of Veterans Affairs;

''(B) is enrolled in a dental plan that—

''(i) is available to the member as a result of employment by the member that is separate from the military service of the member; and

''(ii) is not available to dependents of the member as a result of such separate employment by the member; or

''(C) is prevented by a medical or dental condition from being able to obtain benefits under the plan.''.

(b) CONFORMING AMENDMENT.—Subsection (f)(3) of such section is amended by striking out ''(b)(4)'' and inserting in lieu thereof ''(b)(5)''.

SEC. 702. PLAN FOR PROVISION OF HEALTH CARE FOR MILITARY RETIREES AND THEIR DEPENDENTS COMPARABLE TO HEALTH CARE PROVIDED UNDER TRICARE PRIME.

(a) REQUIREMENT TO SUBMIT PLAN.—(1) The Secretary of Defense shall submit to Congress—

(A) a plan under which the Secretary would guarantee access, for covered beneficiaries described in subsection (b), to health care that is comparable to the health care provided to covered beneficiaries under chapter 55 of title 10, United States Code, under TRICARE Prime (as defined in subsection (d) of section 1097a of such title (as added by section 712)); and

(B) a legislative proposal and cost estimate for implementing the plan.

(2) The plan required under paragraph (1)(A) shall provide for guaranteed access to such health care for such covered beneficiaries by October 1, 2001.

(b) COVERED BENEFICIARIES.—A covered beneficiary under this subsection is an individual who is a covered beneficiary under chapter 55 of title 10, United States Code, who—

(1) is a member or former member of the Armed Forces entitled to retired pay under such title; or

(2) is a dependent (as that term is defined in section 1072(2) of such chapter) of such a member.

(c) DEADLINE FOR SUBMISSION.—The Secretary shall submit the plan required by subsection (a) not later than March 1, 1999.

SEC. 703. PLAN FOR REDESIGN OF MILITARY PHARMACY SYSTEM.

(a) PLAN REQUIRED.—The Secretary of Defense shall submit to Congress a plan that would provide for a system-wide redesign of the military and contractor retail and mail-order pharmacy system of the Department of Defense by incorporating ''best business practices'' of the private sector. The Secretary shall work with contractors of TRICARE retail pharmacy and national mail-order pharmacy programs to develop a plan for the redesign of the pharmacy system that—

(1) may include a plan for an incentive-based formulary for military medical treatment facilities and contractors of TRICARE retail pharmacies and the national mail-order pharmacy; and

(2) shall include a plan for each of the following:

(A) A uniform formulary for such facilities and contractors.

(B) A centralized database that integrates the patient databases of pharmacies of military medical treatment facilities and contractor retail and mail-order programs to implement automated prospective drug utilization review systems.

(C) A system-wide drug benefit for covered beneficiaries under chapter 55 of title 10, United States Code, who are entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.).

(b) SUBMISSION OF PLAN.—The Secretary shall submit the plan required under subsection (a) not later than March 1, 1999.

(c) SUSPENSION OF IMPLEMENTATION OF PROGRAM.—The Secretary shall suspend any plan to establish a national retail pharmacy program for the Department of Defense until—

(1) the plan required under subsection (a) is submitted; and

(2) the Secretary implements cost-saving reforms with respect to the military and contractor retail and mail order pharmacy system.

SEC. 704. TRANSITIONAL AUTHORITY TO PROVIDE CONTINUED HEALTH CARE COVERAGE FOR CERTAIN PERSONS UNAWARE OF LOSS OF CHAMPUS ELIGIBILITY.

(a) TRANSITIONAL COVERAGE.—The administering Secretaries may continue eligibility of a person described in subsection (b) for health care coverage under the Civilian Health and Medical Program of the Uniformed Services based on a determination that such continuation is appropriate to assure health care coverage for any such person who may have been unaware of the loss of eligibility to receive health benefits under that program.

(b) PERSONS ELIGIBLE.—A person shall be eligible for transitional health care coverage under subsection (a) if the person—

(1) is a person described in paragraph (1) of subsection (d) of section 1086 of title 10, United States Code;

(2) in the absence of such paragraph, would be eligible for health benefits under such section; and

(3) satisfies the criteria specified in subparagraphs (A) and (B) of paragraph (2) of such subsection.

(c) EXTENT OF TRANSITIONAL AUTHORITY.—The authority to continue eligibility under this section shall apply with respect to health care services provided between October 1, 1998, and July 1, 1999.

(d) DEFINITION.—In this section, the term ''administering Secretaries'' has the meaning given that term in section 1072(3) of title 10, United States Code.

Subtitle B—TRICARE Program

SEC. 711. PAYMENT OF CLAIMS FOR PROVISION OF HEALTH CARE UNDER THE TRICARE PROGRAM FOR WHICH A THIRD PARTY MAY BE LIABLE.

(a) IN GENERAL.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1095a the following new section:

''§1095b. TRICARE program: contractor payment of certain claims

''(a) PAYMENT OF CLAIMS.—(1) The Secretary of Defense may authorize a contractor under the TRICARE program to pay a claim described in paragraph (2) before seeking to recover from a third-party payer the costs incurred by the contractor to provide health care services that are the basis of the claim to a beneficiary under such program.

''(2) A claim under this paragraph is a claim—

''(A) that is submitted to the contractor by a provider under the TRICARE program for payment for services for health care provided to a covered beneficiary; and

''(B) that is identified by the contractor as a claim for which a third-party payer may be liable.

''(b) RECOVERY FROM THIRD-PARTY PAYERS.—A contractor for the provision of health care services under the TRICARE program that pays a claim described in subsection (a)(2) shall have the right to collect from the third-party payer the costs incurred by such contractor on behalf of the covered beneficiary. The contractor shall have the same right to collect such costs under this subsection as the right of the United States to collect costs under section 1095 of this title.

''(c) DEFINITION OF THIRD-PARTY PAYER.—In this section, the term 'third-party payer' has the meaning given that term in section 1095(h) of this title, except that such term excludes primary medical insurers.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1095a the following new item:

''1095b. TRICARE program: contractor payment of certain claims.''.

SEC. 712. PROCEDURES REGARDING ENROLLMENT IN TRICARE PRIME.

(a) IN GENERAL.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1097 the following new section:

''§1097a. Enrollment in TRICARE Prime: procedures

''(a) AUTOMATIC ENROLLMENT OF CERTAIN DEPENDENTS.—The Secretary of Defense shall establish procedures under which dependents of members of the armed forces on active duty who reside in the catchment area of a military medical treatment facility shall be automatically enrolled in TRICARE Prime at the military medical treatment facility. The Secretary shall provide notice in writing to the member regarding such enrollment.

''(b) AUTOMATIC CONTINUATION OF ENROLLMENT.—The Secretary of Defense shall establish procedures under which enrollment of covered beneficiaries in TRICARE Prime shall automatically continue until such time as the covered beneficiary elects to disenroll or is no longer eligible for enrollment.

''(c) OPTION FOR RETIREES TO DEDUCT FEE FROM PAY.—The Secretary of Defense shall establish procedures under which a retired member of the armed forces may elect to have any fees payable by the member for enrollment in TRICARE Prime withheld from the retired pay of the member (if pay is available to the member).

''(d) DEFINITION OF TRICARE PRIME.—In this section, the term 'TRICARE Prime' means the managed care option of the TRICARE program known as TRICARE Prime.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1097 the following new item:

''1097a. Enrollment in TRICARE Prime: procedures.''.

(b) DEADLINE FOR IMPLEMENTATION.—The Secretary of Defense shall establish the procedures required under section 1097a of title 10, United States Code, as added by subsection (a), not later than April 1, 1999.

Subtitle C—Other Matters

SEC. 721. INFLATION ADJUSTMENT OF PREMIUM AMOUNTS FOR DEPENDENTS DENTAL PROGRAM.

Section 1076a(b)(2) of title 10, United States Code, is amended by inserting after ''$20 per month'' the following: ''(in 1993 dollars, as adjusted for inflation in each year thereafter)''.

SEC. 722. SYSTEM FOR TRACKING DATA AND MEASURING PERFORMANCE IN MEETING TRICARE ACCESS STANDARDS.

(a) REQUIREMENT TO ESTABLISH SYSTEM.—(1) The Secretary of Defense shall establish a system—

(A) to track data regarding access of covered beneficiaries under chapter 55 of title 10, United States Code, to primary health care under the TRICARE program; and

(B) to measure performance in increasing such access against the primary care access standards established by the Secretary under the TRICARE program.

(2) In implementing the system described in paragraph (1), the Secretary shall collect data on the timeliness of appointments and precise waiting times for appointments in order to measure performance in meeting the primary care access standards established under the TRICARE program.

(b) DEADLINE FOR ESTABLISHMENT.—The Secretary shall establish the system described in subsection (a) not later than April 1, 1999.

SEC. 723. AIR FORCE RESEARCH, DEVELOPMENT, TRAINING, AND EDUCATION ON EXPOSURE TO CHEMICAL, BIOLOGICAL, AND RADIOLOGICAL HAZARDS.

(a) IN GENERAL.—The Secretary of the Air Force is hereby authorized to—

(1) conduct research on the health-related, environmental, and ecological effects of exposure to chemical, biological, and radiological hazards;

(2) develop new risk-assessment methods and instruments with respect to exposure to such hazards, including more accurate risk assessment tools to support the Air Force Enhanced Site Specific Risk Assessment; and

(3) educate and train researchers with respect to exposure to such hazards.

(b) ACTIVITIES TO BE CONDUCTED.—Research and development conducted under subsection (a) includes—

(1) development of equipment to monitor soil and ground water contamination and the impact of such contamination on the biosystem chain;

(2) implementation of a cross-sectional epidemiological study of exposure to jet fuel; and

(3) implementation of a health-risk assessment regarding exposure to jet fuel.

SEC. 724. AUTHORIZATION TO ESTABLISH A LEVEL 1 TRAUMA TRAINING CENTER.

The Secretary of the Army is hereby authorized to establish a Level 1 Trauma Training Center (as designated by the American College of Surgeons) in order to provide the Army with a trauma center capable of training forward surgical teams.

SEC. 725. REPORT ON IMPLEMENTATION OF ENROLLMENT-BASED CAPITATION FOR FUNDING FOR MILITARY MEDICAL TREATMENT FACILITIES.

(a) REPORT REQUIRED.—The Secretary of Defense shall submit to Congress a report on the potential impact of using an enrollment-based capitation methodology to allocate funds for military medical treatment facilities. The report shall address the following:

(1) A description of the plans of the Secretary to implement an enrollment-based capitation methodology for military medical treatment facilities and with respect to contracts for the delivery of health care under the TRICARE program.

(2) The justifications for implementing an enrollment-based capitation methodology without first conducting a demonstration project for implementation of such methodology.

(3) The impact that implementation of an enrollment based capitation methodology would have on the provision of space-available care at military medical treatment facilities, particularly in the case of care for—

(A) military retirees entitled who are entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.); and

(B) covered beneficiaries under chapter 55 of title 10, United States Code, who reside outside the catchment area of a military medical treatment facility.

(4) The impact that implementation of an enrollment-based capitation methodology would have with respect to the pharmacy benefits provided at military medical treatment facilities, given that the enrollment-based capitation methodology would fund military medical treatment facilities based on the number of members at such facilities enrolled in TRICARE Prime, but all covered beneficiaries may fill prescriptions at military medical treatment facility pharmacies.

(5) An explanation of how additional funding will be provided for a military medical treatment facility if an enrollment-based capitation methodology is implemented to ensure that space-available care and pharmacy coverage can be provided to covered beneficiaries who are not enrolled at the military medical treatment facility, and the amount of funding that will be available.

(6) An explanation of how implementation of an enrollment-based capitation methodology would impact the provision of uniform benefits under TRICARE Prime, and how the Secretary would ensure, if such methodology were implemented, that the provision of health care under TRICARE Prime would not be bifurcated between the provision of such care at military medical treatment facilities and the provision of such care from civilian providers.

(b) DEADLINE FOR SUBMISSION.—The Secretary shall submit the report required by subsection (a) not later than March 1, 1999.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

SEC. 801. LIMITATION ON PROCUREMENT OF AMMUNITION AND COMPONENTS.

(a) LIMITATION.—Section 2534(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(6) AMMUNITION.—Ammunition or ammunition components.''.

(b) EFFECTIVE DATE.—Paragraph (6) of section 2534(a) of title 10, United States Code, as added by subsection (a), shall apply with respect to contracts entered into after September 30, 1998.

SEC. 802. ACQUISITION CORPS ELIGIBILITY.

Section 1732(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(3) The requirement of subsection (b)(1)(A) shall not apply to an employee who served in an Acquisition Corps in a position within grade GS–13 or above of the General Schedule and who is placed in another position which is in a grade lower than GS–13 of the General Schedule, or whose position is reduced in grade to a grade lower than GS–13 of the General Schedule, as a result of reduction-in-force procedures, the realignment or closure of a military installation, or another reason other than for cause.''.

SEC. 803. AMENDMENTS RELATING TO PROCUREMENT FROM FIRMS IN INDUSTRIAL BASE FOR PRODUCTION OF SMALL ARMS.

(a) REQUIREMENT TO LIMIT PROCUREMENTS TO CERTAIN SOURCES.—Subsection (a) of section 2473 of title 10, United States Code, is amended—

(1) in the heading, by striking out the first word and inserting in lieu thereof ''REQUIREMENT''; and

(2) by striking out ''To the extent that the Secretary of Defense determines necessary to preserve the small arms production industrial base, the Secretary may'' and inserting in lieu thereof ''In order to preserve the small arms production industrial base, the Secretary of Defense shall''.

(b) ADDITIONAL COVERED PROPERTY AND SERVICES.—Subsection (b) of such section is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(2) by inserting before paragraph (2), as so redesignated, the following new paragraph:

''(1) Small arms end items.'';

(3) in paragraph (2), as so redesignated, by inserting before the period the following: '', if those parts are manufactured under a contract with the Department of Defense to produce the end item''; and

(4) by adding after paragraph (3) the following new paragraph:

''(4) Repair parts consisting of barrels, receivers, and bolts for small arms, whether or not the small arms are in production under a contract with the Department of Defense at the time of production of such repair parts.''.

(c) RELATIONSHIP TO OTHER PROVISIONS OF LAW.—Such section is further amended by adding at the end the following new subsection:

''(d) RELATIONSHIP TO OTHER PROVISIONS.—(1) If a procurement under subsection (a) is a procurement of a commercial item, the Secretary may, notwithstanding section 2306(b)(1)(B) of this title, require the submission of certified cost or pricing data under section 2306(a) of this title.

''(2) Subsection (a) is a requirement for purposes of section 2304(c)(5) of this title.''.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

SEC. 901. FURTHER REDUCTIONS IN DEFENSE ACQUISITION WORKFORCE.

(a) REDUCTION IN DEFENSE ACQUISITION WORKFORCE.—Chapter 87 of title 10, United

States Code, is amended by adding at the end the following new section:

''§ 1765. Limitation on number of personnel

''(a) LIMITATION.—Effective October 1, 2001, the number of defense acquisition personnel may not exceed the baseline number reduced by 70,000.

''(b) PHASED REDUCTION.—The number of defense acquisition personnel—

''(1) as of October 1, 1999, may not exceed the baseline number reduced by 25,000; and

''(2) as of October 1, 2000, may not exceed the baseline number reduced by 50,000.

''(c) BASELINE NUMBER.—For purposes of this section, the baseline number is the total number of defense acquisition personnel as of October 1, 1998.

''(d) DEFENSE ACQUISITION PERSONNEL DEFINED.—In this section, the term 'defense acquisition personnel' means military and civilian personnel (other than civilian personnel who are employed at a maintenance depot) who are assigned to, or employed in, acquisition organizations of the Department of Defense (as specified in Department of Defense Instruction numbered 5000.58 dated January 14, 1992).''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter V of such chapter is amended by adding at the end the following new item:

''1765. Limitation on number of personnel.''.

SEC. 902. LIMITATION ON OPERATION AND SUPPORT FUNDS FOR THE OFFICE OF THE SECRETARY OF DEFENSE.

Of the amount available for fiscal year 1999 for operation and support activities of the Office of the Secretary of Defense, not more than 90 percent may be obligated until each of the following reports has been submitted:

(1) The report required to be submitted to the congressional defense committees by section 904(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2619).

(2) The reports required to be submitted to Congress by sections 911(b) and 911(c) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1858, 1859).

SEC. 903. REVISION TO DEFENSE DIRECTIVE RELATING TO MANAGEMENT HEADQUARTERS AND HEADQUARTERS SUPPORT ACTIVITIES.

Not later than October 1, 1999, the Secretary of Defense shall issue a revision to Department of Defense Directive 5100.73, entitled ''Department of Defense Management Headquarters and Headquarters Support Activities'', so as to incorporate in that directive the following:

(1) A threshold specified by command (or other organizational element) such that any headquarters activity below the threshold is not considered for the purpose of the directive to be a management headquarters or headquarters support activity.

(2) A definition of the term ''management headquarters and headquarters support activities'' that (A) is based upon function (rather than organization), and (B) includes any activity (other than an operational activity) that reports directly to such an activity.

(3) Uniform application of those definitions throughout the Department of Defense.

SEC. 904. UNDER SECRETARY OF DEFENSE FOR POLICY TO HAVE RESPONSIBILITY WITH RESPECT TO EXPORT CONTROL ACTIVITIES OF THE DEPARTMENT OF DEFENSE.

(a) FUNCTIONS OF THE UNDER SECRETARY.—Section 134(b)(1) of title 10, United States Code, is amended by adding at the end the following new sentence: ''The Under Secretary shall have responsibility for overall supervision of activities of the Department of Defense relating to export controls.''.

(b) IMPLEMENTATION REPORT.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the plans of the Secretary for the implementation of the amendment made by subsection (a). The report shall include—

(1) a description of any organizational changes within the Department of Defense to be made in order to implement that amendment; and

(2) a description of the role of the Chairman of the Joint Chiefs of Staff with respect to export control activities of the Department following the implementation of the amendment made by subsection (a) and how that role compares to the practice in effect before such implementation.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall be implemented not later than 45 days after the date of the enactment of this Act.

SEC. 905. INDEPENDENT TASK FORCE ON TRANSFORMATION AND DEPARTMENT OF DEFENSE ORGANIZATION.

(a) FINDINGS.—Congress finds the following:

(1) The post-Cold War era is marked by geopolitical uncertainty and by accelerating technological change, particularly with regard to information technologies.

(2) The combination of that geopolitical uncertainty and accelerating technological change portends a transformation in the conduct of war, particularly in ways that are likely to increase the effectiveness of joint force operations.

(3) The Department of Defense must be organized appropriately in order to fully exploit the opportunities offered by, and to meet the challenges posed by, this anticipated transformation in the conduct of war.

(4) The basic organization of the Department of Defense was established by the National Security Act of 1947 and the 1949 amendments to that Act.

(5) The Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99–433) dramatically improved the capability of the Department of Defense to carry out operations involving joint forces, but did not address adequately issues pertaining to the development of joint forces.

(6) In the future, the ability to achieve improved operations of joint forces, particularly under rapidly changing technological conditions, will depend on improved force development for joint forces.

(b) INDEPENDENT TASK FORCE ON TRANSFORMATION AND DEPARTMENT OF DEFENSE ORGANIZATION.—The Secretary of Defense shall establish a task force of the Defense Science Board to examine the current organization of the Department of Defense with regard to the appropriateness of that organization for preparing for a transformation in the conduct of war. The task force shall be established not later than November 1, 1998.

(c) DUTIES OF THE TASK FORCE.—The task force shall assess, and shall make recommendations for the appropriate organization of, the Office of the Secretary of Defense, the Joint Chiefs of Staff, the individual Armed Forces, and the executive parts of the military departments for the purpose of preparing the Department of Defense for a transformation in the conduct of war. In making those assessments and developing those recommendations, the task force shall review the following:

(1) The general organization of the Department of Defense, including whether responsibility and authority for issues relating to a transformation in the conduct of war are appropriately allocated, especially among the Office of the Secretary of Defense, the Joint Chiefs of Staff, and the individual Armed Forces.

(2) The joint requirements process and the requirements processes for each of the Armed Forces, including the establishment of measures of effectiveness and methods for resource allocation.

(3) The process and organizations responsible for doctrinal development, including the appropriate relationship between joint force and service doctrine and doctrinal development organizations.

(4) The current programs and organizations under the Office of the Secretary of Defense, the Joint Chiefs of Staff and the Armed Forces devoted to innovation and experimentation related to a transformation in the conduct of war, including the appropriateness of—

(A) conducting joint field tests;

(B) establishing a separate unified command as a joint forces command to serve, as its sole function, as the trainer, provider, and developer of forces for joint operations;

(C) establishing a Joint Concept Development Center to monitor exercises and develop measures of effectiveness, analytical concepts, models, and simulations appropriate for understanding the transformation in the conduct of war;

(D) establishing a Joint Battle Laboratory headquarters to conduct joint experimentation and to integrate the similar efforts of the Armed Forces; and

(E) establishing an Assistant Secretary of Defense for transformation in the conduct of war.

(5) Joint training establishments and training establishments of the Armed Forces, including those devoted to professional military education, and the appropriateness of establishing national training centers.

(6) Other issues relating to a transformation in the conduct of war that the Secretary considers appropriate.

(d) REPORT.—The task force shall submit to the Secretary of Defense a report containing its assessments and recommendations not later than February 1, 1999. The Secretary shall submit the report to the Committee on National Security of the House of Representatives and the Committee on Armed Services of the Senate not later than March 1, 1999, together with the recommendations and comments of the Secretary of Defense.

SEC. 906. IMPROVED ACCOUNTING FOR DEFENSE CONTRACT SERVICES.

(a) IN GENERAL.—(1) Chapter 131 of title 10, United States Code, is amended by inserting after section 2211 the following new section:

''§ 2212. Obligations for contract services: reporting in budget object classes

''(a) LIMITATION ON REPORTING IN MISCELLANEOUS SERVICES OBJECT CLASS.—The Secretary of Defense shall ensure that, in reporting to the Office of Management and Budget (pursuant to OMB Circular A–11 (relating to preparation and submission of budget estimates)) obligations of the Department of Defense for any period of time for contract services, no more than 15 percent of the total amount of obligations so reported is reported in the miscellaneous services object class.

''(b) DEFINITION OF REPORTING CATEGORIES FOR ADVISORY AND ASSISTANCE SERVICES.—In carrying out section 1105(g) of title 31 for the Department of Defense (and in determining what services are to be reported to the Office of Management and Budget in the advisory and assistance services object class), the Secretary of Defense shall apply to the terms used for the definition of 'advisory and assistance services' in paragraph (2)(A) of that section the following meanings:

''(1) MANAGEMENT AND PROFESSIONAL SUPPORT SERVICES.—The term 'management and professional support services' (used in clause (i) of section 1105(g)(2)(A) of title 31) means services that provide engineering or technical support, assistance, advice, or training for the efficient and effective management and operation of organizations, activities, or systems. Those services—

''(A) are closely related to the basic responsibilities and mission of the using organization; and

''(B) include efforts that support or contribute to improved organization or program management, logistics management, project monitoring

and reporting, data collection, budgeting, accounting, auditing, and administrative or technical support for conferences and training programs.

''(2) STUDIES, ANALYSES, AND EVALUATIONS.—The term 'studies, analyses, and evaluations' (used in clause (ii) of section 1105(g)(2)(A) of title 31) means services that provide organized, analytic assessments to understand or evaluate complex issues to improve policy development, decisionmaking, management, or administration and that result in documents containing data or leading to conclusions or recommendations. Those services may include databases, models, methodologies, and related software created in support of a study, analysis, or evaluation.

''(3) ENGINEERING AND TECHNICAL SERVICES.—The term 'engineering and technical services' (used in clause (iii) of section 1105(g)(2)(A) of title 31) means services that take the form of advice, assistance, training, or hands-on training necessary to maintain and operate fielded weapon systems, equipment, and components (including software when applicable) at design or required levels of effectiveness.

''(c) PROPER CLASSIFICATION OF ADVISORY AND ASSISTANCE SERVICES.—Before the submission to the Office of Management and Budget of the proposed Department of Defense budget for inclusion in the President's budget for a fiscal year pursuant to section 1105 of title 31, the Secretary of Defense, acting through the Under Secretary of Defense (Comptroller), shall review all Department of Defense services expected to be performed as contract services during the fiscal year for which that budget is to be submitted in order to ensure that those services that are advisory and assistance services (as defined in accordance with subsection (b)) are in fact properly classified, in accordance with that subsection, in the advisory and assistance services object class.

''(d) INFORMATION ON SERVICE CONTRACTS.—In carrying out the annual review under subsection (c) of Department of Defense services expected to be performed as contract services during the next fiscal year, the Secretary (acting through the Under Secretary (Comptroller)) shall conduct an assessment of the total non-Federal effort that resulted from the performance of all contracts for such services during the preceding fiscal year and the total non-Federal effort that resulted, or that is expected to result, from the performance of all contracts for such services during the current fiscal year and the next fiscal year. The assessment shall include determination of the following for each such year:

''(1) The amount expended or expected to be expended for non-Federal contract services, shown for the Department of Defense as a whole and displayed by contract services object class for each DOD organization.

''(2) The amount expended or expected to be expended for contract services competed under OMB Circular A–76 or a similar process, shown for the Department of Defense as a whole and displayed by contract services object class for each DOD organization.

''(3) The number of private sector workyears performed or expected to be performed in connection with the performance of non-Federal contract services, shown for the Department of Defense as a whole and displayed by contract services object class for each DOD organization.

''(4) Any other information that the Secretary (acting through the Under Secretary) determines to be relevant and of value.

''(e) REPORT TO CONGRESS.—The Secretary shall submit to Congress each year, not later than 30 days after the date on which the budget for the next fiscal year is submitted pursuant to section 1105 of title 31, a report containing the information derived from the assessment under subsection (d).

''(f) ASSESSMENT BY COMPTROLLER GENERAL.—(1) The Comptroller General shall conduct a review of the report of the Secretary of Defense under subsection (e) each year and shall—

''(A) assess the methodology used by the Secretary in obtaining the information submitted to Congress in that report; and

''(B) assess the information submitted to Congress in that report.

''(2) Not later than 120 days after the date on which the Secretary submits to Congress the report required under subsection (e) for any year, the Comptroller General shall submit to Congress the Comptroller General's report containing the results of the review for that year under paragraph (1).

''(g) DEFINITIONS.—In this section:

''(1) The term 'contract services' means all services that are reported to the Office of Management and Budget pursuant to OMB Circular A–11 (relating to preparation and submission of budget estimates) in budget object classes that are designated in the Object Class 25 series.

''(2) The term 'advisory and assistance services object class' means those contract services constituting the budget object class that is denominated 'Advisory and Assistance Service and designated (as the date of the enactment of this section) as Object Class 25.1 (or any similar object class established after the date of the enactment of this section for the reporting of obligations for advisory and assistance contract services).

''(3) The term 'miscellaneous services object class' means those contract services constituting the budget object class that is denominated 'Other Services (services not otherwise specified in the 25 series)' and designated (as the date of the enactment of this section) as Object Class 25.2 (or any similar object class established after the date of the enactment of this section for the reporting of obligations for miscellaneous or unspecified contract services).

''(4) The term 'DOD organization' means—

''(A) the Office of the Secretary of Defense;

''(B) each military department;

''(C) the Joint Chiefs of Staff and the unified and specified commands;

''(D) each Defense Agency; and

''(E) each Department of Defense Field Activity.

''(5) The term 'private sector workyear' means an amount of labor equivalent to the total number of hours of labor that an individual employed on a full-time equivalent basis by the Federal Government performs in a given year.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2211 the following new item:

''2212. Obligations for contract services: reporting in budget object classes.''.

(b) TRANSITION.—For the budget for fiscal year 2000, and the reporting of information to the Office of Management and Budget in connection with the preparation of that budget, section 2212 of title 10, United States Code, as added by subsection (a), shall be applied by substituting ''30 percent'' in subsection (a) for ''15 percent''.

(c) INITIAL CLASSIFICATION OF ADVISORY AND ASSISTANCE SERVICES.—Not later than February 1, 1999, the Secretary of Defense, acting through the Under Secretary of Defense (Comptroller), shall review all Department of Defense services performed or expected to be performed as contract services during fiscal year 1999 in order to ensure that those services that are advisory and assistance services (as defined in accordance with subsection (b) of section 2212 of title 10, United States Code, as added by subsection (a)) are in fact properly classified, in accordance with that subsection, in the advisory and assistance services object class (as defined in subsection (g)(2) of that section).

(d) FISCAL YEAR 1999 REDUCTION.—The total amount that may be obligated by the Secretary of Defense for contracted advisory and assistance services from amounts appropriated for fiscal year 1999 is the amount programmed for those services resulting from the review referred to in subsection (c) reduced by $500,000,000.

SEC. 907. REPEAL OF REQUIREMENT RELATING TO ASSIGNMENT OF TACTICAL AIRLIFT MISSION TO RESERVE COMPONENTS.

Section 1438 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1689), as amended by section 1023 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1460), is repealed.

SEC. 908. REPEAL OF CERTAIN REQUIREMENTS RELATING TO INSPECTOR GENERAL INVESTIGATIONS OF REPRISAL COMPLAINTS.

(a) REPEAL OF REQUIREMENT OF NOTICE THAT INVESTIGATION WILL TAKE MORE THAN 90 DAYS.—Subsection (e) of section 1034 of title 10, United States Code, is amended—

(1) by striking out paragraph (3);

(2) by redesignating paragraph (4) as paragraph (3).

(b) REPEAL OF REQUIREMENT FOR POST-DISPOSITION INTERVIEW WITH COMPLAINANT.—Such section is further amended by striking out subsection (h).

SEC. 909. CONSULTATION WITH COMMANDANT OF THE MARINE CORPS REGARDING MARINE CORPS AVIATION.

(a) IN GENERAL.—Chapter 503 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 5026. Consultation with Commandant of the Marine Corps regarding Marine Corps aviation

''The Secretary of the Navy shall require that the views of the Commandant of the Marine Corps be obtained before a milestone decision or other major decision is made by an element of the Department of the Navy outside the Marine Corps in a procurement matter, a research, development, test, and evaluation matter, or a depot-level maintenance matter that concerns Marine Corps aviation.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''5026. Consultation with Commandant of the Marine Corps regarding Marine Corps aviation.''.

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

SEC. 1001. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1999 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary of Defense may transfer under the authority of this section may not exceed $2,000,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

SEC. 1002. INCORPORATION OF CLASSIFIED ANNEX.

(a) STATUS OF CLASSIFIED ANNEX.—The Classified Annex prepared by the Committee on National Security of the House of Representatives to accompany H.R. 3616 of the One Hundred Fifth Congress and transmitted to the President is hereby incorporated into this Act.

(b) CONSTRUCTION WITH OTHER PROVISIONS OF ACT.—The amounts specified in the Classified Annex are not in addition to amounts authorized to be appropriated by other provisions of this Act.

(c) LIMITATION ON USE OF FUNDS.—Funds appropriated pursuant to an authorization contained in this Act that are made available for a program, project, or activity referred to in the Classified Annex may only be expended for such program, project, or activity in accordance with such terms, conditions, limitations, restrictions, and requirements as are set out for that program, project, or activity in the Classified Annex.

(d) DISTRIBUTION OF CLASSIFIED ANNEX.—The President shall provide for appropriate distribution of the Classified Annex, or of appropriate portions of the annex, within the executive branch of the Government.

SEC. 1003. OUTLAY LIMITATIONS.

(a) DEPARTMENT OF DEFENSE.—The Secretary of Defense shall ensure that outlays of the Department of Defense during fiscal year 1999 from amounts appropriated or otherwise available to the Department of Defense for military functions of the Department of Defense (including military construction and military family housing) do not exceed $252,650,000,000.

(b) DEPARTMENT OF ENERGY.—The Secretary of Energy shall ensure that outlays of the Department of Energy during fiscal year 1999 from amounts appropriated or otherwise made available to the Department of Energy for national security programs of that Department do not exceed $11,772,000,000.

Subtitle B—Naval Vessels and Shipyards

SEC. 1011. REVISION TO REQUIREMENT FOR CONTINUED LISTING OF TWO IOWA-CLASS BATTLESHIPS ON THE NAVAL VESSEL REGISTER.

In carrying out section 1011 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 421), the Secretary of the Navy shall list on the Naval Vessel Register, and maintain on that register, the following two Iowa-class battleships: the USS IOWA (BB–61) and the USS WISCONSIN (BB–64).

SEC. 1012. TRANSFER OF USS NEW JERSEY.

The Secretary of the Navy shall strike the USS NEW JERSEY (BB–62) from the Naval Vessel Register and shall transfer that vessel to a non-for-profit entity in accordance with section 7306 of title 10, United States Code. The Secretary shall require as a condition of the transfer of that vessel that the transferee locate the vessel in the State of New Jersey.

SEC. 1013. LONG-TERM CHARTER OF THREE VESSELS IN SUPPORT OF SUBMARINE RESCUE, ESCORT, AND TOWING.

The Secretary of the Navy may enter into contracts in accordance with section 2401 of title 10, United States Code, for the charter through September 30, 2003, of the following vessels:

(1) The CAROLYN CHOUEST (United States official number D102057).

(2) The KELLIE CHOUEST (United States official number D1038519).

(3) The DOLORES CHOUEST (United States official number D600288).

SEC. 1014. TRANSFER OF OBSOLETE ARMY TUGBOAT.

In carrying out section 1023 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1876), the Secretary of the Army may substitute the obsolete, decommissioned tugboat Attleboro (LT–1977) for the tugboat Normandy (LT–1971) as one of the two obsolete tugboats authorized to be transferred by the Secretary under that section.

SEC. 1015. LONG-TERM CHARTER CONTRACTS FOR ACQUISITION OF AUXILIARY VESSELS FOR THE DEPARTMENT OF DEFENSE.

(a) PROGRAM AUTHORIZATION.—Chapter 631 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 7233. Auxiliary vessels: authority for long-term charter contracts

''(a) AUTHORIZED CONTRACTS.—After September 30, 1998, the Secretary of the Navy, subject to subsection (b), may enter into a contract for the long-term lease or charter of a newly built surface vessel, under which the contractor agrees to provide a crew for the vessel for the term of the long-term lease or charter, for any of the following:

''(1) The combat logistics force of the Navy.

''(2) The strategic sealift program of the Navy.

''(3) Other auxiliary support vessels for the Department of Defense.

''(b) CONTRACTS REQUIRED TO BE AUTHORIZED BY LAW.—A contract may be entered into under this section with respect to specific vessels only if the Secretary is specifically authorized by law to enter into such a contract with respect to those vessels.

''(c) FUNDS FOR CONTRACT PAYMENTS.—The Secretary may make payments for contracts entered into under this section using funds available for obligation during the fiscal year for which the payments are required to be made. Any such contract shall provide that the United States will not be required to make a payment under the contract (other than a termination payment, if required) before October 1, 2000.

''(d) TERM OF CONTRACT.—In this section, the term 'long-term lease or charter' means a lease, charter, service contract, or conditional sale agreement with respect to a vessel the term of which (including any option period) is for a period of 20 years or more.

''(e) OPTION TO BUY.—A contract entered into under the authority of this section may contain options for the United States to purchase one or more of the vessels covered by the contract at any time during, or at the end of, the contract period (including any option period) upon payment of an amount not in excess of the unamortized portion of the cost of the vessels plus amounts incurred in connection with the termination of the financing arrangements associated with the vessels.

''(f) DOMESTIC CONSTRUCTION.—The Secretary shall require in any contract entered into under this section that each vessel to which the contract applies—

''(1) shall have been constructed in a shipyard within the United States; and

''(2) upon delivery, shall be documented under the laws of the United States.

''(g) VESSEL CREWING.—The Secretary shall require in any contract entered into under this section that the crew of any vessel to which the contract applies be comprised of private sector commercial mariners.

''(h) DOMESTIC CONSTRUCTION REQUIREMENT FOR CERTAIN LEASES OF VESSELS.—(1) Notwithstanding section 2400 or 2401a of this title or any other provision of law, the Secretary of Defense may not enter into a contract for the lease or charter of a vessel described in paragraph (2) for a contract period in excess of 17 months (inclusive of any option periods) unless the vessel is constructed in a shipyard in the United States.

''(2) Paragraph (1) applies to vessels of the following types:

''(A) Auxiliary support vessel.

''(B) Strategic sealift vessel.

''(C) Tank vessel.

''(D) Combat logistics force vessel.

''(i) CONTINGENT WAIVER OF OTHER PROVISIONS OF LAW.—A contract authorized by this section may be entered into without regard to section 2401 or 2401a of this title if the Secretary of Defense makes the following findings with respect to that contract:

''(1) The need for the vessels or services to be provided under the contract is expected to remain substantially unchanged during the contemplated contract or option period.

''(2) There is a reasonable expectation that throughout the contemplated contract or option period the Secretary of the Navy (or, if the contract is for services to be provided to, and funded by, another military department, the Secretary of that military department) will request funding for the contract at the level required to avoid contract cancellation.

''(3) The use of such contract or the exercise of such option is in the interest of the national defense.

''(j) SOURCE OF FUNDS FOR TERMINATION LIABILITY.—If a contract entered into under this section is terminated, the costs of such termination may be paid from—

''(1) amounts originally made available for performance of the contract;

''(2) amounts currently available for operation and maintenance of the type of vessels or services concerned and not otherwise obligated; or

''(3) funds appropriated for those costs.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''7233. Auxiliary vessels: authority for long-term charter contracts.''.

Subtitle C—Matters Relating to Counter Drug Activities

SEC. 1021. DEPARTMENT OF DEFENSE SUPPORT FOR COUNTER-DRUG ACTIVITIES.

(a) CONTINUATION OF AUTHORITY.—Subsection (a) of section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 374 note) is amended by striking out ''through 1999'' and inserting in lieu thereof ''through 2000''.

(b) TYPES OF SUPPORT.—Subsection (b)(4) of such section is amended by inserting before the period at the end the following: ''conducted by the Department of Defense or a Federal, State, or local law enforcement agency, or a foreign law enforcement agency in the case of counter-drug activities outside the United States''.

(c) UNSPECIFIED MINOR MILITARY CONSTRUCTION PROJECTS.—Such section is further amended by adding at the end the following new section:

''(h) UNSPECIFIED MINOR MILITARY CONSTRUCTION PROJECTS.—Section 2805 of title 10, United States Code, shall apply with respect to any unspecified minor military construction project carried out using the authority provided under this section.''.

SEC. 1022. SUPPORT FOR COUNTER-DRUG OPERATION CAPER FOCUS.

(a) SUPPORT REQUIRED.—During fiscal year 1999, the Secretary of Defense shall make available such surface vessels of the Navy and maritime patrol aircraft and crews of the Navy as may be necessary to conduct the final phase of the counter-drug operation known as Caper Focus, which targets the maritime movement of cocaine on vessels in the eastern Pacific Ocean.

(b) FISCAL YEAR 1999 FUNDING.—Of the amount authorized to be appropriated pursuant to section 301(20) for drug interdiction and counter-drug activities, $24,400,000 shall be available only for the purpose of conducting the counter-drug operation known as Caper Focus.

Subtitle D—Miscellaneous Report Requirements and Repeals

SEC. 1031. ANNUAL REPORT ON RESOURCES ALLOCATED TO SUPPORT AND MISSION ACTIVITIES.

Section 113 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(l) The Secretary shall include in the annual report to Congress under subsection (c) the following:

''(1) A comparison of the amounts provided in the defense budget for support and for mission activities for each of the preceding five years.

''(2) A comparison of the number of military and civilian personnel, shown by major occupational category, assigned to support positions and to mission positions for each of the preceding five years.

''(3) An accounting, shown by service and by major occupational category, of the number of military and civilian personnel assigned to support positions during each of the preceding five years.

''(4) A listing of the number of military and civilian personnel assigned to management headquarters and headquarters support activities as a percentage of military end-strength for each of the preceding 10 years.''.

Subtitle E—Other Matters

SEC. 1041. CLARIFICATION OF LAND CONVEYANCE AUTHORITY, ARMED FORCES RETIREMENT HOME, DISTRICT OF COLUMBIA.

(a) SALE REQUIRED.—Subsection (a) of section 1053 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2650) is amended—

(1) by striking out '', by sale or otherwise,''; and

(2) by adding at the end the following new sentence: ''The conveyance of the real property shall be made by sale to the highest bidder, except that the purchase price may not be less than the fair market value of the parcel.''.

(b) CONFORMING AMENDMENT.—Subsection (b)(1) of such section is amended by striking out ''the disposal'' and inserting in lieu thereof ''the sale''.

SEC. 1042. CONTENT OF NOTICE REQUIRED TO BE PROVIDED GARNISHEES BEFORE GARNISHMENT OF PAY OR BENEFITS.

(a) AUTHORIZATION OF ALTERNATIVE TO PROVIDING COPY OF NOTICE OR SERVICE RECEIVED BY THE SECRETARY.—(1) Whenever the Secretary of Defense (acting through the DOD section 459 agent) provides a section 459 notice to an individual, the Secretary may include as part of that notice the information specified in subsection (c) in lieu of sending with that notice a copy (otherwise required pursuant to the parenthetical phrase in section 459(c)(2)(A) of the Social Security Act) of the notice or service received by the DOD section 459 agent with respect to that individual's child support or alimony payment obligations.

(2) Whenever the Secretary of Defense (acting through the DOD section 5520a agent) provides a section 5520a notice to an individual, the Secretary may include as part of that notice the information specified in subsection (c) in lieu of sending with that notice a copy (otherwise required pursuant to the second parenthetical phrase in section 5520a(c) of the title 5, United States Code) of the legal process received by the DOD section 5520a agent with respect to that individual.

(b) DEFINITIONS.—For purposes of this section:

(1) DOD SECTION 459 AGENT.—The term ''DOD section 459 agent'' means the agent or agents designated by the Secretary of Defense under subsection (c)(1)(A) of section 459 of the Social Security Act (42 U.S.C. 659) to receive orders and accept service of process in matters related to child support or alimony.

(2) SECTION 459 NOTICE.—The term ''section 459 notice'' means, with respect to the Department of Defense, the notice required by subsection (c)(2)(A) of section 459 of the Social Security Act (42 U.S.C. 659) to be sent to an individual in writing upon the receipt by the DOD section 459 agent of notice or service with respect to the individual's child support or alimony payment obligations.

(3) DOD SECTION 5520A AGENT.—The term ''DOD section 5520a agent'' means a person who is designated by law or regulation to accept service of process to which the Department of Defense is subject under section 5520a of title 5, United States Code (including the regulations promulgated under subsection (k) of that section).

(4) SECTION 5520A NOTICE.—The term ''section 5520a notice'' means, with respect to the Department of Defense, the notice required by subsection (c) of section 5520a of title 5, United States Code, to be sent in writing to an employee (or, pursuant to the regulations promulgated under subsection (k) of that section, to a member of the Armed Forces) upon the receipt by the DOD section 5520a agent of legal process covered by that section.

(c) ALTERNATIVE REQUIREMENTS.—The information referred to in subsection (a) that is to be included as part of a section 459 notice or section 5520a notice sent to an individual (in lieu of sending with that notice a copy of the notice or service received by the DOD section 459 agent or the DOD section 5520a agent) is the following:

(1) A description of the pertinent court order, notice to withhold, or other order, process, or interrogatory received by the DOD section 459 agent or the DOD section 5520a agent.

(2) The identity of the court or judicial forum involved and (in the case of a notice or process concerning the ordering of a support or alimony obligation) the case number, the amount of the obligation, and the name of the beneficiary.

(3) Information on how the individual may obtain from the Department of Defense a copy of the notice, service, or legal process, including an address and telephone number that the individual may be contact for the purpose of obtaining such a copy.

(d) REPORT.—Not later than April 1, 2001, the Secretary shall submit to Congress a report describing the experience of the Department of Defense under the authority provided by this section. The report shall include the following:

(1) The number of section 459 notices provided by the DOD section 459 agent during the period the authority provided by this section was in effect.

(2) The number of individuals who requested the DOD section 459 agent to provide to them a copy of the actual notice or service.

(3) Any complaint the Secretary received by reason of not having provided the actual notice or service in the section 459 notice.

(4) The number of section 5520a notices provided by the DOD section 5520a agent during the period the authority provided by this section was in effect.

(5) The number of individuals who requested the DOD section 5520a agent to provide to them a copy of the actual legal process.

(6) Any complaint the Secretary received by reason of not having provided the actual legal process in the section 5520a notice.

SEC. 1043. TRAINING OF SPECIAL OPERATIONS FORCES WITH FRIENDLY FOREIGN FORCES.

(a) TRAINING EXPENSES FOR WHICH PAYMENT MAY BE MADE.—Subsection (a)(1) of section 2011 of title 10, United States Code, is amended by striking out ''and other security forces''.

(b) PURPOSE OF TRAINING.—Subsection (b) of such section is amended by striking out ''primary''.

(c) REGULATIONS.—Subsection (c) of such section is amended by inserting after the first sentence the following new sentence: ''The regulations shall require that training activities may be carried out under this section only with the prior approval of the Secretary of Defense.''.

(d) ELEMENTS OF ANNUAL REPORT.—Subsection (e) of such section is amended by adding at the end the following new paragraphs:

''(5) A summary of the expenditures under this section resulting from the training for which expenses were paid under this section.

''(6) A discussion of the unique military training benefit to United States special operations forces derived from the training activities for which expenses were paid under this section.''.

TITLE XI—DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL

SEC. 1101. AUTHORITY FOR RELEASE TO COAST GUARD OF DRUG TEST RESULTS OF CIVIL SERVICE MARINERS OF THE MILITARY SEALIFT COMMAND.

(a) IN GENERAL.—Chapter 643 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 7479. Civil service mariners of Military Sealift Command: release of drug test results to Coast Guard

''(a) RELEASE OF DRUG TEST RESULTS TO COAST GUARD.—The Secretary of the Navy may release to the Commandant of the Coast Guard the results of a drug test of any employee of the Department of the Navy who is employed in any capacity on board a vessel of the Military Sealift Command. Any such release shall be in accordance with the standards and procedures applicable to the disclosure and reporting to the Coast Guard of drug tests results and drug test records of individuals employed on vessels documented under the laws of the United States.

''(b) WAIVER.—The results of a drug test of an employee may be released under subsection (a) without the prior written consent of the employee that is otherwise required under section 503(e) of the Supplemental Appropriations Act, 1987 (5 U.S.C. 7301 note).''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''7479. Civil service mariners of Military Sealift Command: release of drug test results to Coast Guard.''.

SEC. 1102. LIMITATIONS ON BACK PAY AWARDS.

(a) In General.—Section 5596(b) of title 5, United States Code, is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

''(4) The pay, allowances, or differentials granted under this section for the period for which an unjustified or unwarranted personnel action was in effect shall not exceed that authorized by the applicable law, rule, regulations, or collective bargaining agreement under which the unjustified or unwarranted personnel action is found, except that in no case may pay, allowances, or differentials be granted under this section for a period beginning more than 6 years before the date of the filing of a timely appeal or, absent such filing, the date of the administrative determination.''.

(b) CONFORMING AMENDMENT.—Section 7121 of title 5, United States Code, is amended by adding at the end the following new subsection:

''(h) Settlements and awards under this chapter shall be subject to the limitations in section 5596(b)(4) of this title.''.

SEC. 1103. RESTORATION OF ANNUAL LEAVE ACCUMULATED BY CIVILIAN EMPLOYEES AT INSTALLATIONS IN THE REPUBLIC OF PANAMA TO BE CLOSED PURSUANT TO THE PANAMA CANAL TREATY OF 1977.

Section 6304(d)(3)(A) of title 5, United States Code, is amended by inserting ''the closure of an installation of the Department of Defense in the Republic of Panama in accordance with the Panama Canal Treaty of 1977,'' after ''2687 note) during any period,''.

SEC. 1104. REPEAL OF PROGRAM PROVIDING PREFERENCE FOR EMPLOYMENT OF MILITARY SPOUSES IN MILITARY CHILD CARE FACILITIES.

Section 1792 of title 10, United States Code, is amended—

(1) by striking out subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

SEC. 1105. ELIMINATION OF RETAINED PAY AS BASIS FOR DETERMINING LOCALITY-BASED ADJUSTMENTS.

Section 5302(8)(B) of title 5, United States Code, is amended by inserting ''(except a rate

retained under subsection (a)(2) of that section)'' after ''section 5363''.

SEC. 1106. OBSERVANCE OF CERTAIN HOLIDAYS AT DUTY POSTS OUTSIDE THE UNITED STATES.

Section 6103(b) of title 5, United States Code, is amended by inserting after paragraph (2) the following new paragraph:

''(3) Instead of a holiday that is designated under subsection (a) to occur on a Monday, for an employee at a duty post outside the United States whose basic workweek is other than Monday through Friday, and for whom Monday is a regularly scheduled workday, the legal public holiday is the first workday of the workweek in which the Monday designated for the observance of such holiday under subsection (a) occurs.''.

TITLE XII—MATTERS RELATING TO OTHER NATIONS

SEC. 1201. LIMITATION ON FUNDS FOR PEACEKEEPING IN THE REPUBLIC OF BOSNIA AND HERZEGOVINA.

(a) LIMITATION.—The Secretary of Defense may not expend from funds appropriated to the Department of Defense for fiscal year 1999 more than $1,858,600,000 for the purpose of providing for United States participation in Bosnia peacekeeping operations.

(b) EMERGENCY EXCEPTION.—The Secretary may increase the amount under subsection (a) by not more than $100,000,000 for the sole purpose of safeguarding United States forces in the event of hostilities, imminent hostilities, or other grave danger to their well-being. Such an increase may become effective only upon submission by the Secretary to Congress of a certification that such grave danger exists and that such additional funds are required to meet immediate security threats.

(c) REPORT.—Not later than April 1, 1999, the Secretary of Defense shall submit to Congress a report with respect to United States participation in Bosnia peacekeeping operations. The report shall provide a detailed projection of any additional funding that will be required by the Department of Defense to meet mission requirements for such operations for the remainder of fiscal year 1999.

(d) PRESIDENTIAL AUTHORITY.—Nothing in this section shall be deemed to restrict the authority of the President under the Constitution to protect the lives of United States citizens.

(e) BOSNIA PEACEKEEPING OPERATIONS.—For purposes of subsection (a), the term ''Bosnia peacekeeping operations'' means the operation designated as Operation Joint Force, the operation designated as Operation Joint Endeavor, and any other operation under which United States military forces participate in peacekeeping or peace enforcement activities in the Republic of Bosnia and Herzegovina and any activity that is directly related to the support of any such operation.

SEC. 1202. REPORTS ON THE MISSION OF UNITED STATES FORCES IN REPUBLIC OF BOSNIA AND HERZEGOVINA.

(a) FINDINGS.—Congress finds the following:

(1) In section 1202(1) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1929; approved November 18, 1997), it was stated to be the sense of Congress that United States ground combat forces should not participate in a follow-on force in the Republic of Bosnia and Herzegovina after June 1998.

(2) On December 16, 1997, the President announced his support for the continued deployment of United States ground combat forces in the Republic of Bosnia and Herzegovina after June 30, 1998, as part of a multinational peacekeeping force led by the North Atlantic Treaty Organization (NATO).

(3) The President's decision to extend the presence of United States ground combat forces in the Republic of Bosnia and Herzegovina has changed the mission of those forces in a fundamental manner.

(4) The President has in effect committed United States ground combat forces in the Republic of Bosnia and Herzegovina to providing a secure environment for complete implementation of the civilian provisions of the Dayton Accords.

(5) The Administration has not specified how long such an achievement will take and, therefore, the mission of United States ground combat forces in the Republic of Bosnia and Herzegovina is of indefinite duration.

(b) ANNUAL PRESIDENTIAL REPORT.—(1) The President shall submit to Congress an annual report on the presence of United States ground combat forces in the Republic of Bosnia and Herzegovina. Each such report shall include the following:

(A) The President's assessment of progress toward the full implementation of the civilian goals of the Dayton Accord, as specified in subsection (c).

(B) The expected duration of the deployment of United States ground combat forces in the Republic of Bosnia and Herzegovina in support of implementation of those goals.

(C) The percentage of those goals that have been completed as of the date of the report, the percentage that are expected to be completed within the next reporting period, and the expected time for completion of the remaining tasks.

(2) The first report under this subsection shall be submitted not later than 90 days after the date of the enactment of this Act, and subsequent reports shall be submitted at yearly intervals thereafter. The requirement to submit an annual report under this subsection terminates upon the withdrawal of all United States ground combat forces from the Republic of Bosnia and Herzegovina.

(c) BASIS FOR ASSESSMENT OF PROGRESS.—For purposes of subsection (b)(1)(A), the President shall assess whether progress is being made toward implementation of the civilian goals of the Dayton Accords based upon assessment of the following goals and associated matters:

(1) Accomplishment of military stability, as measured by—

(A) the maintenance of the cease-fire between the former warring parties;

(B) the continued cantonment of heavy weapons and the observance of arms limitations;

(C) the disbanding of special police;

(D) the termination of covert support to the Srpska Demokratska Stranka party by the Federal Republic of Yugoslavia; and

(E) similar measures.

(2) Police and judicial reform, as measured by—

(A) the restructuring and ethnic integration of local police;

(B) completion of human rights training by local police forces;

(C) the demonstrated ability of local police to deal effectively and impartially with civil disturbances and disorder;

(D) the implementation of an effective judicial reform program; and

(E) similar measures.

(3) Creation and implementation of effective national institutions untainted by ethnic separatism, as measured by—

(A) the dissolution of previously outlawed institutions;

(B) a functioning customs service with national control over customs revenues;

(C) transparency in national budgets and disbursements; and

(D) similar measures.

(4) Media reform, as measured by—

(A) the divestiture of control of broadcast networks from the control of political parties;

(B) opposition party access to media;

(C) the availability of alternative and independent media throughout the Republic of Bosnia and Herzegovina; and

(D) similar measures.

(5) Democratization and reform of the electoral process, as measured by—

(A) transparent functioning of local, entity, and national governments;

(B) acceptance of binding arbitration for the implementation of results in contested local elections;

(C) modification of electoral laws to meet international and Organization for Security and Cooperation in Europe (OSCE) standards;

(D) the free and fair conduct of the September 1998 national elections and subsequent elections; and

(E) similar measures.

(6) Return of refugees, as measured by—

(A) compliance of entity property laws with the Dayton Accords;

(B) participation by entity governments in orderly cross-ethnic returns;

(C) protection by local police of returnees;

(D) acceptance of substantial numbers of returned refugees in major cities; and

(E) similar measures.

(7) Resolution of the status of Brcko, as measured by—

(A) the implementation of local election results;

(B) the functioning of an ethnically integrated police force;

(C) ethnic reintegration of Brcko and the surrounding region; and

(D) similar measures.

(8) Compliance of persons indicted for war crimes by the International Tribunal for the Former Yugoslavia, as measured by—

(A) the termination of political, military, and media control by war criminals;

(B) the assistance of local authorities in apprehension of indictees;

(C) the cooperation of entity justice establishments in cooperating with the Tribunal; and

(D) similar measures.

(9) The ability of international organizations to carry out their functions within the Republic of Bosnia and Herzegovina without military support, as measured by—

(A) the ability of local authorities to carry out demining programs;

(B) the ability of the Office of the High Representative to enforce inter-entity agreements without accompanying military shows of force; and

(C) similar measures.

(10) Economic reconstruction and recovery, as measured by—

(A) local currency circulating freely and its use in official transactions;

(B) an agreement reached on a permanent national currency in use in all entities;

(C) the creation of privatization laws consistent with the Dayton Accords;

(D) government control over sources of revenue;

(E) substantial repair and functioning of major infrastructure elements;

(F) an in-place International Monetary Fund program; and

(G) similar measures.

(d) SECRETARY OF DEFENSE REPORT.—(1) Not later than December 15, 1998, the Secretary of Defense shall submit to the congressional defense committees a report on the effects of military operations in the Republic of Bosnia and Herzegovina and the Balkans region on the capabilities of United States military forces and, in particular, on the capability of United States military forces to conduct successfully two nearly simultaneous major theater wars as specified in current Defense Planning Guidance and in accordance with the deployment timelines called for in the war plans of the commanders of unified combatant commands.

(2) Whenever the number of United States ground combat forces in the Republic of Bosnia and Herzegovina increases or decreases by 10 percent or more compared to the number of such forces as of the most recent previous report under this subsection, the Secretary shall submit an additional report as specified in paragraph (1). Any such additional report shall be submitted within 30 days of the date on which the requirement to submit the report becomes effective under the preceding sentence.

(3) The Secretary shall include in each report under this subsection information with respect to the effects of military operations in the Republic of Bosnia and Herzegovina and the Balkans region on the capabilities of United States military forces to conduct successfully two nearly simultaneous major theater wars as specified in current Defense Planning Guidance and in accordance with the deployment timelines called for in the war plans of the commanders of unified combatant commands. Such information shall include information on the effects of those operations upon anticipated deployment plans for major theater wars in Southwest Asia or on the Korean peninsula including the following:

(A) Deficiencies or delays in deployment of strategic lift, logistics support and infrastructure, ammunition (including precision guided munitions) support forces, intelligence assets, follow-on forces used for planned counteroffensives, and similar forces.

(B) Additional planned reserve component mobilization, including specific units to be ordered to active duty and required dates for activation of presidential call-up authority.

(C) Specific plans and timelines for redeployment of United States forces from the Republic of Bosnia and Herzegovina, the Balkans region, or supporting forces in the region, to both the first and second major theater war.

(D) Preventative actions or deployments involving United States forces in the Republic of Bosnia and Herzegovina and the Balkans region that would be taken in the event of a single theater war to deter the outbreak of a second theater war.

(E) Specific plans and timelines to replace forces deployed to the Republic of Bosnia and Herzegovina, the Balkans region, or the surrounding region to maintain United States military presence.

(F) An assessment, undertaken in consultation with the Chairman of the Joint Chiefs of Staff and the commanders of the unified combatant commands, of the level of increased risk to successful conduct of the major theater wars and the maintenance of security and stability in the Republic of Bosnia and Herzegovina and the Balkans region, by the requirement to redeploy forces from Bosnia and the Balkans in the event of a major theater war.

(e) DEFINITION OF DAYTON ACCORDS.—For purposes of this section, the term ''Dayton Accords'' means the General Framework Agreement for Peace in Bosnia and Herzegovina, initialed by the parties in Dayton, Ohio, on November 21, 1995, and signed in Paris on December 14, 1995.

SEC. 1203. REPORT ON MILITARY CAPABILITIES OF AN EXPANDED NATO ALLIANCE.

(a) REPORT.—The Secretary of Defense shall prepare a report, in both classified and unclassified form, on the planned future military capabilities of the North Atlantic Treaty Organization (NATO) in light of the proposed inclusion of Poland, the Czech Republic, and Hungary in the NATO alliance. The report shall set forth—

(1) the tactical, operational, and strategic issues that would be raised by the inclusion of Poland, the Czech Republic, and Hungary in the NATO alliance;

(2) the required improvements to common alliance military assets that would result from the inclusion of those nations in the alliance;

(3) the planned improvements to national capabilities of current NATO members that would be required by reason of the inclusion of those nations in the alliance;

(4) the planned improvements to national capabilities of the military forces of those candidate member nations; and

(5) the additional requirements that would be imposed on the United States by NATO expansion.

(b) MATTERS TO BE INCLUDED.—The report shall include the following:

(1) An assessment of the tactical and operational capabilities of the military forces of each of the candidate member nations.

(2) An assessment of the capability of each candidate member nation to provide logistical, command and control, and other vital infrastructure required for alliance defense (as specified in Article V of the NATO Charter), including a description in general terms of alliance plans for reinforcing each candidate member nation during a crisis or war and detailing means for deploying both United States and other NATO forces from current member states and from the continental United States or other United States bases worldwide and, in particular, describing plans for ground reinforcement of Hungary.

(3) An assessment of the ability of current and candidate alliance members to deploy and sustain combat forces in alliance defense missions conducted in the territory of any of the candidate member nations, as specified in Article V of the NATO Charter.

(4) A description of projected defense programs through 2009 (shown on an annual basis and cumulatively) of each current and candidate alliance member nation, including planned investments in capabilities relevant to Article V alliance defense and potential alliance contingency operations and showing both planned national efforts as well as planned alliance common efforts and describing any disparities in investments by current or candidate alliance member nations.

(5) A detailed comparison and description of any disparities in scope, methodology, assessments of common alliance or national responsibilities, or any other factor related to alliance capabilities between (A) the report on alliance expansion costs prepared by the Department of Defense (in the report submitted to Congress in February 1998 entitled ''Report to the Congress on the Military Requirements and Costs of NATO Enlargement''), and (B) the report on alliance expansion costs prepared by NATO collectively and referred to as the ''NATO estimate'', issued at Brussels in November 1997.

(6) Any other factor that, in the judgment of the Secretary of Defense, bears upon the strategic, operational, or tactical military capabilities of an expanded NATO alliance.

(c) SUBMISSION OF REPORT.—The report shall be submitted to Congress not later than March 15, 1999.

SEC. 1204. ONE-YEAR EXTENSION OF COUNTERPROLIFERATION AUTHORITIES FOR SUPPORT OF UNITED NATIONS SPECIAL COMMISSION ON IRAQ.

(a) AMOUNT AUTHORIZED FOR FISCAL YEAR 1999.—The total amount of assistance for fiscal year 1999 provided by the Secretary of Defense under section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) that is provided in the form of funds, including funds used for activities of the Department of Defense in support of the United Nations Special Commission on Iraq, may not exceed $15,000,000.

(b) EXTENSION OF AUTHORITY TO PROVIDE ASSISTANCE.—Subsection (f) of section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) is amended by striking out ''1998'' and inserting in lieu thereof ''1999''.

SEC. 1205. REPEAL OF LANDMINE MORATORIUM.

Section 580 of the Foreign Operations Appropriations Act, 1996 (Public Law 104–107; 110 Sat 751), is repealed.

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION

SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.

(a) SPECIFICATION OF CTR PROGRAMS.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in subsection (b) of section 406 of title 10, United States Code (as added by section 1305).

(b) FISCAL YEAR 1999 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term ''fiscal year 1999 Cooperative Threat Reduction funds'' means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

SEC. 1302. FUNDING ALLOCATIONS.

(a) IN GENERAL.—Of the fiscal year 1999 Cooperative Threat Reduction funds, not more than the following amounts may be obligated for the purposes specified:

(1) Except as provided in paragraph (11), for strategic offensive arms elimination in Russia, $142,400,000.

(2) Except as provided in paragraph (11), for strategic nuclear arms elimination in Ukraine, $47,500,000.

(3) For activities to support warhead dismantlement processing in Russia, $9,400,000.

(4) For activities associated with chemical weapons destruction in Russia, $35,000,000.

(5) For weapons transportation security in Russia, $10,300,000.

(6) For planning, design, and construction of a storage facility for Russian fissile material, $60,900,000.

(7) For weapons storage security in Russia, $41,700,000.

(8) For development of a cooperative program with the Government of Russia to eliminate the production of weapons grade plutonium at Russian reactors, $29,800,000.

(9) For biological weapons proliferation prevention activities in Russia, $2,000,000.

(10) For activities designated as Other Assessments/Administrative Support $7,000,000.

(11) For strategic arms elimination in Russia or Ukraine, $31,400,000.

(b) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1) If the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may, subject to paragraphs (2) and (3), obligate amounts for the purposes stated in any of the paragraphs of subsection (a) in excess of the amount specified for those purposes in that paragraph. However, the total amount obligated for the purposes stated in the paragraphs in subsection (a) may not by reason of the use of the authority provided in the preceding sentence exceed the sum of the amounts specified in those paragraphs.

(2) An obligation for the purposes stated in any of the paragraphs in subsection (a) in excess of the amount specified in that paragraph may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(3) The Secretary may not, under the authority provided in paragraph (1), obligate amounts appropriated for the purposes stated in any of paragraphs (3) through (10) of subsection (a) in excess of 115 percent of the amount stated in those paragraphs.

SEC. 1303. PROHIBITION ON USE OF FUNDS FOR SPECIFIED PURPOSES.

(a) IN GENERAL.—No fiscal year 1999 Cooperative Threat Reduction funds, and no funds appropriated for Cooperative Threat Reduction programs for any prior fiscal year and remaining available for obligation, may be obligated or expended for any of the following purposes:

(1) Conducting with Russia any peacekeeping exercise or other peacekeeping-related activity.

(2) Provision of housing.

(3) Provision of assistance to promote environmental restoration.

(4) Provision of assistance to promote job retraining.

(5) Programs other than the programs specified in subsection (b) of section 406 of title 10, United States Code (as added by section 1305).

(b) LIMITATION WITH RESPECT TO DEFENSE CONVERSION ASSISTANCE.—None of the funds appropriated pursuant to this Act may be obligated or expended for the provision of assistance to Russia or any other state of the former Soviet Union to promote defense conversion.

SEC. 1304. LIMITATION ON USE OF FUNDS FOR CHEMICAL WEAPONS DESTRUCTION FACILITY.

No fiscal year 1999 Cooperative Threat Reduction funds authorized to be obligated in section 1302(a)(4) for activities associated with chemical weapons destruction in Russia, and no funds appropriated for Cooperative Threat Reduction programs for any prior fiscal year and remaining available for obligation, may be used for construction of a chemical weapons destruction facility.

SEC. 1305. LIMITATION ON OBLIGATION OF FUNDS FOR A SPECIFIED PERIOD.

(a) IN GENERAL.—(1) Chapter 20 of title 10, United States Code, is amended by adding at the end the following new section:

''§406. Use of Cooperative Threat Reduction program funds: limitation

''(a) IN GENERAL.—In carrying out Cooperative Threat Reduction programs during any fiscal year, the Secretary of Defense may use funds appropriated for those programs only to the extent that those funds were appropriated for that fiscal year or for either of the 2 preceding fiscal years.

''(b) DEFINITION OF COOPERATIVE THREAT REDUCTION PROGRAMS.—In this section, the term 'Cooperative Threat Reduction programs' means the following programs with respect to states of the former Soviet Union:

''(1) Programs to facilitate the elimination, and the safe and secure transportation and storage, of nuclear, chemical, and other weapons of mass destruction and their delivery vehicles.

''(2) Programs to facilitate the safe and secure storage of fissile materials derived from the elimination of nuclear weapons.

''(3) Programs to prevent the proliferation of weapons of mass destruction, components, and technology and expertise related to such weapons.

''(4) Programs to expand military-to-military and defense contacts.''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''406. Use of Cooperative Threat Reduction program funds: limitation.''.

(b) EFFECTIVE DATE.—The limitation described in section 406 of title 10, United States Code, as added by subsection (a), shall apply with respect to fiscal years beginning with fiscal year 1999.

SEC. 1306. REQUIREMENT TO SUBMIT BREAKDOWN OF AMOUNTS REQUESTED BY PROJECT CATEGORY.

The Secretary of Defense shall submit to Congress on an annual basis, not later than 30 days after the date that the President submits to Congress the budget of the United States Government for the following fiscal year—

(1) a breakdown, with respect to the appropriations requested for Cooperative Threat Reduction programs for the fiscal year after the fiscal year in which the breakdown is submitted, of the amounts requested for each project category under each Cooperative Threat Reduction program element; and

(2) a breakdown, with respect to appropriations for Cooperative Threat Reduction programs for the fiscal year in which the breakdown is submitted, of the amounts obligated or expended, or planned to be obligated or expended, for each project category under each Cooperative Threat Reduction program element.

SEC. 1307. LIMITATION ON USE OF FUNDS UNTIL COMPLETION OF FISCAL YEAR 1998 REQUIREMENTS.

(a) USE OF FUNDS FOR PROGRAMS RELATED TO START II TREATY.—No fiscal year 1999 Cooperative Threat Reduction funds may be obligated or expended for strategic offensive arms elimination projects in Russia related to the START II Treaty (as defined in section 1302(f) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1948)) until 30 days after the date on which the Secretary of Defense submits to Congress the certification described in section 1404 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1960).

(b) USE OF FUNDS FOR CHEMICAL WEAPONS DESTRUCTION FACILITY.—No fiscal year 1999 Cooperative Threat Reduction funds may be obligated or expended for activities relating to a chemical weapons destruction facility until 15 days after the date that is the later of the dates described in section 1405 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1960).

(c) USE OF FUNDS FOR DESTRUCTION OF CHEMICAL WEAPONS.—No funds authorized to be appropriated under this or any other Act for fiscal year 1999 for Cooperative Threat Reduction programs may be obligated or expended for chemical weapons destruction activities until the President submits to Congress the written certification described in section 1406(b) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1961).

(d) USE OF FUNDS FOR STORAGE FACILITY FOR RUSSIAN FISSILE MATERIAL.—No fiscal year 1999 Cooperative Threat Reduction funds may be obligated or expended for planning, design, or construction of a storage facility for Russian fissile material until 15 days after the date that is the later of the dates described in section 1407 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1962).

(e) USE OF FUNDS FOR WEAPONS STORAGE SECURITY.—No fiscal year 1999 Cooperative Threat Reduction funds intended for weapons storage security activities in Russia may be obligated or expended until 15 days after the date that the Secretary of Defense submits to Congress the report on the status of negotiations between the United States and Russia described in section 1408 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1962).

SEC. 1308. REPORT ON BIOLOGICAL WEAPONS PROGRAMS IN RUSSIA.

(a) REPORT.—Not later than December 31, 1998, the Secretary of Defense shall submit to the congressional defense committees a report, in classified and unclassified forms, containing—

(1) an assessment of the extent of compliance by Russia with international agreements relating to the control of biological weapons; and

(2) a detailed evaluation of the potential political and military costs and benefits of collaborative biological pathogen research efforts by the United States and Russia.

(b) CONTENT OF REPORT.—The report required under subsection (a) shall include the following:

(1) An evaluation of the extent of the control and oversight by the Government of Russia over the military and civilian-military biological warfare programs formerly controlled or overseen by states of the former Soviet Union.

(2) The extent and scope of continued biological warfare research, development, testing, and production in Russia, including the sites where such activity is occurring and the types of activity being conducted.

(3) An assessment of compliance by Russia with the terms of the Biological Weapons Convention.

(4) An identification and assessment of the measures taken by Russia to comply with the obligations assumed under the Joint Statement on Biological Weapons, agreed to by the United States, the United Kingdom, and Russia on September 14, 1992.

(5) A description of the extent to which Russia has permitted individuals from the United States or other countries to visit military and nonmilitary biological research, development, testing, and production sites in order to resolve ambiguities regarding activities at such sites.

(6) A description of the information provided by Russia about its biological weapons dismantlement efforts to date.

(7) An assessment of the accuracy and comprehensiveness of declarations by Russia regarding its biological weapons activities.

(8) An identification of collaborative biological research projects carried out by the United States and Russia for which Cooperative Threat Reduction funds have been used.

(9) An evaluation of the political and military utility of prior, existing, and prospective cooperative biological pathogen research programs carried out between the United States and Russia, and an assessment of the impact of such programs on increasing Russian military transparency with respect to biological weapons activities.

(10) An assessment of the political and military utility of the long-term collaborative program advocated by the National Academy of Sciences in its October 27, 1997 report, ''Controlling Dangerous Pathogens: A Blueprint for U.S.-Russian Cooperation''.

SEC. 1309. LIMITATION ON USE OF FUNDS FOR BIOLOGICAL WEAPONS PROLIFERATION PREVENTION ACTIVITIES IN RUSSIA.

No fiscal year 1999 Cooperative Threat Reduction funds may be obligated or expended for biological weapons proliferation prevention activities in Russia until 15 days after the date that is the later of the following:

(1) The date on which the Secretary of Defense submits to Congress a certification that no Cooperative Threat Reduction funds provided for cooperative research activities at biological research institutes in Russia have been used—

(A) to support activities that have resulted in the development of a new strain of anthrax; or

(B) for any purpose inconsistent with the objectives of providing such assistance.

(2) The date on which the Secretary submits to the congressional defense committees notification that the United States has examined and tested the new strain of anthrax reportedly developed at the State Research Center for Applied Microbiology in Obolensk, Russia.

SEC. 1310. LIMITATION ON USE OF CERTAIN FUNDS FOR STRATEGIC ARMS ELIMINATION IN RUSSIA OR UKRAINE.

No fiscal year 1999 Cooperative Threat Reduction funds authorized to be obligated in section 1302(a)(11) for strategic arms elimination in Russia or Ukraine may be obligated or expended until 30 days after the date that the Secretary of Defense submits to the congressional defense committees notification on how the Secretary plans to use such funds.

SEC. 1311. AVAILABILITY OF FUNDS.

Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE.

This division may be cited as the ''Military Construction Authorization Act for Fiscal Year 1999''.

TITLE XXI—ARMY

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Army: Inside the United States

State	Installation or location	Amount
Alabama	Anniston Army Depot	$3,550,000
	Fort Rucker	$4,300,000
	Redstone Arsenal	$1,550,000
California	Fort Irwin	$14,800,000
Georgia	Fort Benning	$28,600,000
Hawaii	Schofield Barracks	$67,500,000
Illinois	Rock Island Arsenal	$5,300,000
Indiana	Crane Army Ammunition Activity	$7,100,000
Kansas	Fort Riley	$3,600,000
Kentucky	Blue Grass Army Depot	$5,300,000
	Fort Campbell	$41,000,000
	Fort Knox	$23,000,000
Louisiana	Fort Polk	$8,300,000
Maryland	Fort Detrick	$3,550,000
Missouri	Fort Leonard Wood	$28,200,000
New Jersey	Fort Monmouth	$7,600,000
	Picatinny Arsenal	$8,400,000
New York	Fort Drum	$4,650,000
	United States Military Academy, West Point	$85,000,000
North Carolina	Fort Bragg	$95,900,000
Oklahoma	Fort Sill	$13,800,000
	McAlester Army Ammunition Plant	$10,800,000
Texas	Fort Bliss	$4,100,000
	Fort Hood	$32,500,000
	Fort Sam Houston	$21,800,000
Utah	Tooele Army Depot	$3,900,000
Virginia	National Ground Intelligence Center, Charlottesville	$46,200,000
	Fort Eustis	$36,531,000
Washington	Fort Lewis	$18,200,000
CONUS Classified	Classified Location	$4,600,000
	Total	$639,631,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the locations outside the United States, and in the amounts, set forth in the following table:

Army: Outside the United States

Country	Installation or location	Amount
Belgium	80th Area Support Group	$6,300,000
Germany	Schweinfurt	$18,000,000
	Wurzburg	$4,250,000
Korea	Camp Casey	$13,400,000
	Camp Castle	$18,226,000
	Camp Humphreys	$8,500,000
	Camp Stanley	$5,800,000
Kwajalein	Kwajalein Atoll	$48,600,000
	Total	$123,076,000

SEC. 2102. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

Army: Family Housing

State	Installation or location	Purpose	Amount
Alabama	Redstone Arsenal	118 Units	$14,000,000
Hawaii	Schofield Barracks	64 Units	$14,700,000
North Carolina	Fort Bragg	170 Units	$19,800,000
Texas	Fort Hood	154 Units	$21,600,000
Virginia	Fort Lee	80 Units	$13,000,000
		Total	$83,100,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $6,350,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may improve existing military family housing units in an amount not to exceed $37,429,000.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1998, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,010,036,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $535,631,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $87,076,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $5,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $63,792,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $126,879,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,097,697,000.

(6) For the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $7,500,000.

(7) For the construction of the missile software engineering annex, phase II, Redstone Arsenal, Alabama, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 1966), $13,600,000.

(8) For the construction of a disciplinary barracks, phase II, Fort Leavenworth, Kansas, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 1998, $29,000,000.

(9) For the construction of the whole barracks complex renewal, Fort Sill, Oklahoma, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 1998, $20,500,000.

(10) For rail yard expansion at Fort Carson, Colorado, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 1998, $23,000,000.

(11) For the construction of an aerial gunnery range at Fort Drum, New York, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 1998, $9,000,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a);

(2) $16,000,000 (the balance of the amount authorized under section 2101(a) for the construction of a multipurpose digital training range at Fort Knox, Kentucky);

(3) $15,000,000 (the balance of the amount authorized under section 2101(a) for the construction of a railhead facility at Fort Hood, Texas);

(4) $73,000,000 (the balance of the amount authorized under section 2101(a) for the construction of a cadet development center at the United States Military Academy, West Point, New York); and

(5) $36,000,000 (the balance of the amount authorized under section 2101(b) for the construction of a powerplant on Roi Namur Island at Kwajalein Atoll, Kwajalein).

(c) ADJUSTMENTS.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (11) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by—

(1) $2,639,000, which represents the combination of project savings in military family housing construction resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes; and

(2) $6,000,000, which represents the combination of project savings in military construction resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes.

SEC. 2105. INCREASE IN FISCAL YEAR 1998 AUTHORIZATION FOR MILITARY CONSTRUCTION PROJECTS AT FORT DRUM, NEW YORK, AND FORT SILL, OKLAHOMA.

(a) INCREASE.—The table in section 2101(a) of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 1967) is amended—

(1) in the item relating to Fort Drum, New York, by striking out ''$24,400,000'' in the amount column and inserting in lieu thereof ''$24,900,000'';

(2) in the item relating to Fort Sill, Oklahoma, by striking out ''$25,000,000'' in the amount column and inserting in lieu thereof ''$28,500,000''; and

(3) by striking out the amount identified as the total in the amount column and inserting in lieu thereof ''$602,750,000''.

(b) CONFORMING AMENDMENT.—Section 2104 of that Act (111 Stat. 1968) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking out ''$2,010,466,000'' and inserting in lieu thereof ''$2,013,966,000''; and

(B) in paragraph (1), by striking out ''$435,350,000'' and inserting in lieu thereof ''$438,850,000''; and

(2) in subsection (b)(8), by striking out ''$8,500,000'' and inserting in lieu thereof ''$9,000,000''.

TITLE XXII—NAVY

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Navy: Inside the United States

State	Installation or location	Amount
Arizona	Marine Corps Air Station, Yuma	$11,010,000
	Naval Observatory Detachment, Flagstaff	$990,000
California	Marine Corps Air Station, Miramar	$29,570,000
	Marine Corps Base, Camp Pendleton	$40,430,000
	Naval Air Station, Lemoore	$20,640,000
	Naval Air Warfare Center Weapons Division, China Lake	$10,140,000
	Naval Facility, San Clemente Island	$8,350,000
	Naval Submarine Base, San Diego	$11,400,000
District of Columbia	Naval District, Washington	$790,000
Florida	Naval Air Station, Key West	$3,730,000
	Naval Air Station, Jacksonville	$1,500,000
	Naval Air Station, Whiting Field	$1,400,000
	Naval Station, Mayport	$6,163,000
Georgia	Marine Corps Logistics Base, Albany	$2,800,000
	Naval Submarine Base, Kings Bay	$2,550,000
Hawaii	Fleet and Industrial Supply Center, Pearl Harbor	$9,730,000
	Marine Corps Air Station, Kaneohe Bay	$27,410,000
	Naval Communications & Telecommunications Area Master Station Eastern Pacific, Wahiawa	$1,970,000
	Naval Shipyard, Pearl Harbor	$11,400,000
	Naval Station, Pearl Harbor	$18,180,000
	Naval Submarine Base, Pearl Harbor	$8,060,000
	Navy Public Works Center, Pearl Harbor	$28,967,000
Illinois	Naval Training Center, Great Lakes	$20,280,000
Indiana	Naval Surface Warfare Center, Crane	$11,110,000
Maryland	Naval Surface Warfare Center, Indian Head Division, Indian Head	$13,270,000
Mississippi	Naval Air Station, Meridian	$3,280,000
	Naval Construction Battalion Center Gulfport	$10,670,000
North Carolina	Marine Corps Air Station, Cherry Point	$6,040,000
	Marine Corps Base, Camp LeJeune	$14,600,000
Pennsylvania	Naval Surface Warfare Center Ship Systems Engineering Station, Philadelphia	$2,410,000
Rhode Island	Naval Education and Training Center, Newport	$5,630,000
	Naval Undersea Warfare Center Division, Newport	$9,140,000
South Carolina	Marine Corps Air Station, Beaufort	$1,770,000
	Marine Corps Reserve Detachment Parris Island	$15,990,000
	Naval Weapons Station, Charleston	$9,737,000
Texas	Naval Station, Ingleside	$12,200,000
Virginia	Fleet and Industrial Supply Center, Norfolk (Craney Island)	$1,770,000
	Fleet Training Center, Norfolk	$5,700,000

Navy: Inside the United States—Continued

State	Installation or location	Amount
Washington	Naval Air Station, Oceana	$6,400,000
	Naval Shipyard, Norfolk, Portsmouth	$6,180,000
	Naval Station, Norfolk	$45,530,000
	Naval Surface Warfare Center, Dahlgren	$15,680,000
	Tactical Training Group Atlantic, Dam Neck	$2,430,000
	Naval Shipyard, Puget Sound	$4,300,000
	Strategic Weapons Facility Pacific, Bremerton	$2,750,000
	Total	$484,047,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Navy: Outside the United States

Country	Installation or location	Amount
Greece	Naval Support Activity, Souda Bay	$5,260,000
Guam	Naval Activities, Guam	$10,310,000
Italy	Naval Support Activity, Naples	$18,270,000
United Kingdom	Joint Maritime Communications Center, St. Mawgan	$2,010,000
	Total	$35,850,000

SEC. 2202. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

Navy: Family Housing

State	Installation or location	Purpose	Amount
California	Naval Air Station, Lemoore	162 Units	$30,379,000
Hawaii	Navy Public Works Center, Pearl Harbor	150 Units	$29,125,000
		Total	$59,504,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $15,618,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may improve existing military family housing units in an amount not to exceed $221,991,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1998, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $1,776,726,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $470,547,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $35,850,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $8,900,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $60,346,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $297,113,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $915,293,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $13,500,000 (the balance of the amount authorized under section 2202(a) for the construction of a berthing pier at Naval Station, Norfolk, Virginia.

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (5) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by—

(1) $6,323,000 which represents the combination of project savings in military family housing construction resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes; and

(2) $5,000,000 which represents the combination of project savings in military construction resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes.

SEC. 2205. AUTHORIZATION TO ACCEPT ROAD CONSTRUCTION PROJECT, MARINE CORPS BASE, CAMP LEJEUNE, NORTH CAROLINA.

The Secretary of the Navy may accept from the State of North Carolina, a road construction project valued at approximately $2,000,000, which is to be constructed at Marine Corps Base, Camp Lejeune, North Carolina, in accordance with plans and specifications acceptable to the Secretary of the Navy.

TITLE XXIII—AIR FORCE

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	Installation or location	Amount
Alabama	Maxwell Air Force Base	$19,398,000
Alaska	Eielson Air Force Base	$4,352,000
Arizona	Luke Air Force Base	$3,400,000
California	Edwards Air Force Base	$10,361,000
	Travis Air Force Base	$4,250,000

Air Force: Inside the United States—Continued

State	Installation or location	Amount
	Vandenberg Air Force Base	$18,709,000
Colorado	Falcon Air Force Station	$9,601,000
	United States Air Force Academy	$4,413,000
District of Columbia	Bolling Air Force Base	$2,948,000
Florida	Eglin Air Force Base	$20,437,000
	Eglin Auxiliary Field 9	$3,837,000
	MacDill Air Force Base	$9,808,000
	Tyndall Air Force Base	$3,600,000
Georgia	Robins Air Force Base	$11,894,000
Hawaii	Hickam Air Force Base	$5,890,000
Idaho	Mountain Home Air Force Base	$16,397,000
Kansas	McConnell Air Force Base	$4,450,000
Maryland	Andrews Air Force Base	$4,448,000
Mississippi	Keesler Air Force Base	$35,526,000
Nevada	Indian Springs Air Force Auxiliary Air Field	$15,013,000
	Nellis Air Force Base	$6,378,000
New Jersey	McGuire Air Force Base	$6,044,000
New Mexico	Holloman Air Force Base	$11,100,000
	Kirtland Air Force Base	$1,774,000
North Carolina	Seymour Johnson Air Force Base	$6,100,000
North Dakota	Grand Forks Air Force Base	$2,686,000
Ohio	Wright-Patterson Air Force Base	$22,000,000
Oklahoma	Altus Air Force Base	$5,300,000
	Tinker Air Force Base	$25,385,000
	Vance Air Force Base	$6,223,000
South Carolina	Charleston Air Force Base	$24,330,000
South Dakota	Ellsworth Air Force Base	$6,500,000
Tennessee	Arnold Air Force Base	$11,600,000
Texas	Brooks Air Force Base	$7,000,000
	Dyess Air Force Base	$3,350,000
	Lackland Air Force Base	$14,930,000
	Laughlin Air Force Base	$7,315,000
	Randolph Air Force Base	$3,166,000
Washington	Fairchild Air Force Base	$13,820,000
	McChord Air Force Base	$51,847,000
	Total	$445,580,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(2), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Air Force: Outside the United States

Country	Installation or location	Amount
Germany	Spangdahlem Air Base	$13,967,000
Korea	Kunsan Air Base	$5,958,000
	Osan Air Base	$7,496,000
Turkey	Incirlik Air Base	$2,949,000
United Kingdom	Royal Air Force, Lakenheath	$15,838,000
	Royal Air Force, Mildenhall	$24,960,000
	Total	$71,168,000

SEC. 2302. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

Air Force: Family Housing

State	Installation or location	Purpose	Amount
Alabama	Maxwell Air Force Base	143 Units	$16,300,000
Alaska	Eielson Air Force Base	46 Units	$12,932,000
California	Edwards Air Force Base	48 Units	$12,580,000
	Vandenberg Air Force Base	95 Units	$18,499,000
Delaware	Dover Air Force Base	55 Units	$8,998,000
Florida	MacDill Air Force Base	48 Units	$7,609,000
	Patrick Air Force Base	46 Units	$9,692,000
	Tyndall Air Force Base	122 Units	$14,500,000
Nebraska	Offutt Air Force Base	Ancillary Facility	$870,000
	Offutt Air Force Base	Ancillary Facility	$900,000
	Offutt Air Force Base	90 Units	$12,212,000
Nevada	Nellis Air Force Base	60 Units	$10,550,000
New Mexico	Kirtland Air Force Base	37 Units	$6,400,000
Ohio	Wright-Patterson Air Force Base	40 Units	$5,600,000
Texas	Dyess Air Force Base	64 Units	$9,415,000
	Sheppard Air Force Base	65 Units	$7,000,000

Air Force: Family Housing—Continued

State	Installation or location	Purpose	Amount
Washington	Fairchild Air Force Base	Ancillary Facility	$1,692,000
	Fairchild Air Force Base	14 Units	$2,300,000
		Total	$158,049,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $11,342,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $81,778,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1998, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $1,577,264,000 as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $445,580,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $71,168,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $7,135,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $37,592,000.

(5) For military housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $251,169,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $785,204,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (5) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by—

(1) $9,584,000 which represents the combination of project savings in military family housing construction resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes; and

(2) $11,000,000 which represents the combination of project savings in military construction resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes.

TITLE XXIV—DEFENSE AGENCIES

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Inside the United States

Agency	Installation or location	Amount
Chemical Demilitarization	Aberdeen Proving Ground, Maryland	$186,350,000
	Newport Army Depot, Indiana	$191,550,000
Defense Logistics Agency	Defense Fuel Support Point, Fort Sill, Oklahoma	$3,500,000
	Defense Fuel Support Point, Jacksonville Annex, Mayport, Florida	$11,020,000
	Defense Fuel Support Point, Jacksonville, Florida	$11,000,000
	Defense General Supply Center, Richmond (DLA), Virginia	$10,500,000
	Defense Fuels Supply Center, Camp Shelby, Mississippi	$5,300,000
	Defense Fuels Supply Center, Elmendorf Air Force Base, Alaska	$19,500,000
	Defense Fuels Supply Center, Pope Air Force Base, North Carolina	$4,100,000
	Various Locations	$1,300,000
Defense Medical Facilities Office	Barksdale Air Force Base, Louisiana	$3,450,000
	Beale Air Force Base, California	$3,500,000
	Carlisle Barracks, Pennsylvania	$4,678,000
	Cheatham Annex, Virginia	$11,300,000
	Edwards Air Force Base, California	$6,000,000
	Elgin Air Force Base, Florida	$9,200,000
	Fort Bragg, North Carolina	$6,500,000
	Fort Hood, Texas	$14,100,000
	Fort Stewart/Hunter Army Air Field, Georgia	$10,400,000
	Grand Forks Air Force Base, North Dakota	$5,600,000
	Holloman Air Force Base, New Mexico	$1,300,000
	Keesler Air Force Base, Mississippi	$700,000
	Marine Corps Air Station, Camp Pendleton, California..	$6,300,000
	McChord Air Force Base, Washington	$20,000,000
	Moody Air Force Base, Georgia	$11,000,000
	Naval Air Station, Pensacola, Florida	$25,400,000
	Naval Hospital, Bremerton, Washington	$28,000,000
	Naval Hospital, Great Lakes, Illinois	$7,100,000
	Naval Station, San Diego, California	$1,350,000
	Naval Submarine Base, Bangor, Washington	$5,700,000
	Travis Air Force Base, California	$1,700,000
Defense Education Activity	Marine Corps Base, Camp LeJeune, North Carolina	$16,900,000
	United States Military Academy, West Point, New York	$2,840,000
National Security Agency	Fort Meade, Maryland	$668,000
Special Operations Command	Elgin Auxiliary Field 3, Florida	$7,310,000
	Elgin Auxiliary Field 9, Florida	$2,400,000
	Fort Campbell, Kentucky	$15,000,000
	MacDill Air Force Base, Florida	$8,400,000
	Naval Amphibious Base, Coronado, California	$3,600,000
	Stennis Space Center, Mississippi	$5,500,000
	Total	$690,016,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(2), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Outside the United States

Agency	Installation or location	Amount
Ballistic Missile Defense Organization	Kwajalein Atoll, Kwajalein	$4,600,000
Defense Logistics Agency	Lajes Field, Azores, Portugal	$7,700,000
Defense Medical Facilities Office	Naval Air Station, Sigonella, Italy	$5,300,000
	Royal Air Force, Lakenheath, United Kingdom	$10,800,000
Defense Education Activity	Fort Buchanan, Puerto Rico	$8,805,000
	Naval Activities, Guam	$13,100,000
Special Operations Command	Naval Station, Roosevelt Roads, Puerto Rico	$9,600,000
	Total	$59,905,000

SEC. 2402. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriation in section 2404(a)(11)(A), the Secretary of Defense may improve existing military family housing units in an amount not to exceed $345,000.

SEC. 2403. ENERGY CONSERVATION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(9), the Secretary of Defense may carry out energy conservation projects under section 2865 of title 10, United States Code.

SEC. 2404. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1998, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $2,386,023,000 as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $369,966,000.

(2) For military construction projects outside the United States authorized by section 2401(a), $59,905,000.

(3) For construction of the Ammunition Demilitarization Facility, Pine Bluff Arsenal, Arkansas authorized by section 2401 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3040), as amended by section 2407 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 539), section 2408 of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 1982), and section 2405 of this Act, $16,500,000.

(4) For construction of the Ammunition Demilitarization Facility, Umatilla Army Depot, Oregon, authorized by section 2401 of the Military Construction Authorization Act for Fiscal Year 1995, as amended by section 2407 of the Military Construction Authorization Act for Fiscal Year 1996, section 2408 of the Military Construction Authorization Act for Fiscal Year 1998, and section 2405 of this Act, $50,950,000.

(5) For military construction projects at Portsmouth Naval Hospital, Virginia, hospital replacement, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189; 106 Stat. 1640), as amended by section 2406 of this Act, $17,954,000.

(6) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,094,000.

(7) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $4,890,000.

(8) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $39,866,000.

(9) For energy conservation projects authorized by section 2404, $46,950,000.

(10) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), $1,730,704,000.

(11) For military family housing functions:

(A) For improvement of military family housing and facilities, $345,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $36,899,000 of which not more than $31,139,000 may be obligated or expended for the leasing of military family housing units worldwide.

(C) For credit to the Department of Defense Family Housing Improvement Fund established by section 2883(a)(1) of title 10, United States Code, $7,000,000.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variation authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a);

(2) $162,050,000 (the balance of the amount authorized under section 2401(a) for the construction of the Ammunition Demilitarization Facility at Newport Army Depot, Indiana); and

(3) $158,000,000 (the balance of the amount authorized under section 2401(a) for the construction of the Ammunition Demilitarization Facility at Aberdeen Proving Ground, Maryland).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (11) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $12,000,000, which represents the combination of project savings in military construction resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes.

SEC. 2405. INCREASE IN FISCAL YEAR 1995 AUTHORIZATION FOR MILITARY CONSTRUCTION PROJECTS AT PINE BLUFF ARSENAL, ARKANSAS, AND UMATILLA ARMY DEPOT, OREGON.

The table in section 2401 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3040), as amended by section 2407 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 539) and section 2408 of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 1982), under the agency heading relating to Chemical Weapons and Munitions Destruction, is amended—

(1) in the item relating to Pine Bluff Arsenal, Arkansas, by striking out $134,000,000'' in the amount column and inserting in lieu thereof ''$154,400,000''; and

(2) in the item relating to Umatilla Army Depot, Oregon, by striking out ''$187,000,000'' in the amount column and inserting in lieu thereof ''$193,377,000''.

SEC. 2406. INCREASE IN FISCAL YEAR 1990 AUTHORIZATION FOR MILITARY CONSTRUCTION PROJECT AT PORTSMOUTH NAVAL HOSPITAL, VIRGINIA.

(a) INCREASE.—The table in section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 100–189; 103 Stat. 1640) is amended in the item relating to Portsmouth Naval Hospital, Virginia, by striking out ''$330,000,000'' and inserting in lieu thereof ''$351,354,000''.

(b) CONFORMING AMENDMENT.—Section 2405(b)(2) of that Act (103 Stat. 1642) is amended by striking out ''$321,500,000'' and inserting in lieu thereof ''$342,854,000''.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Security Investment program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1998, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Security Investment program authorized by section 2501, in the amount of $169,000,000.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years beginning after September 30, 1998, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 1803 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $70,338,000; and

(B) for the Army Reserve, $84,608,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $33,721,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $97,701,000; and

(B) for the Air Force Reserve, $35,371,000.

(b) ADJUSTMENT.—(1) The amount authorized to be appropriated pursuant to subsection (a)(1)(A) is reduced by $2,000,000, which represents the combination of project savings in

military construction resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes.

(2) The amount authorized to be appropriated pursuant to subsection (a)(3)(A) is reduced by $4,000,000, which represents the combination of project savings in military construction resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes.

SEC. 2602. ARMY RESERVE CONSTRUCTION PROJECT, SALT LAKE CITY, UTAH.

(a) COST SHARE REQUIREMENT.—With regard to the military construction project for the Army Reserve concerning construction of a reserve center and organizational maintenance shop at an appropriate site in, or in the vicinity of, Salt Lake City, Utah, to be carried out using funds appropriated pursuant to the authorization of appropriations in section 2601(a)(1)(B), the Secretary of the Army shall enter into an agreement with the State of Utah under which the State agrees to provide financial or in-kind contributions in connection with the project.

(b) REPEAL OF SUPERSEDED AUTHORITY.—(1) Section 2603 of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 1983) is repealed.

(2) Section 2601(a)(1)(B) of such Act is amended by striking out ''$66,267,000'' and inserting in lieu thereof ''$53,553,000''.

TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.

(a) EXPIRATION OF AUTHORIZATIONS AFTER THREE YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 2001; or

(2) the date of enactment of an Act authorizing funds for military construction for fiscal year 2002.

(b) EXCEPTION.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before the later of—

(1) October 1, 2001; or

(2) the date of enactment of an Act authorizing funds for fiscal year 2002 for military construction projects, land acquisition, family housing projects and facilities, or contributions to the North Atlantic Treaty Organization Security Investment program.

SEC. 2702. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 1996 PROJECTS.

(a) EXTENSIONS.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 541), authorizations for the projects set forth in the tables in subsection (b), as provided in sections 2201, 2302, or 2601 of that Act, shall remain in effect until October 1, 1999, or the date of enactment of an Act authorizing funds for military construction for fiscal year 2000, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are as follows:

Navy: Extension of 1996 Project Authorization

State	Installation or location	Project	Amount
Puerto Rico	Naval Station Roosevelt Roads	Housing Office ..	$710,000

Air Force: Extension of 1996 Project Authorization

State	Installation or location	Project	Amount
Texas	Lackland Air Force Base	Family Housing (67 units)	$6,200,000

Army National Guard: Extension of 1996 Project Authorization

State	Installation or location	Project	Amount
Mississippi	Camp Shelby	Multipurpose Range Complex (Phase I)	$5,000,000

SEC. 2703. EXTENSION OF AUTHORIZATION OF FISCAL YEAR 1995 PROJECT.

(a) EXTENSION.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3046), the authorization for the project set forth in the table in subsection (b), as provided in section 2201 of that Act and extended by section 2702 of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 1985), shall remain in effect until October 1, 1999, or the date of enactment of an Act authorizing funds for military construction for fiscal year 2000, whichever is later.

(b) TABLE.—The table referred to in subsection (a) is as follows:

Navy: Extension of 1995 Project Authorization

State	Installation or location	Project	Amount
Maryland	Indian Head Naval Surface Warfare Center	Denitrification/ Acid Mixing Facility	$6,400,000

SEC. 2704. EFFECTIVE DATE.

Titles XXI, XXII, XXIII, XXIV, XXV, and XXVI shall take effect on the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

SEC. 2801. DEFINITION OF ANCILLARY SUPPORTING FACILITIES UNDER THE ALTERNATIVE AUTHORITY FOR ACQUISITION AND IMPROVEMENT OF MILITARY HOUSING.

Section 2871(1) of title 10, United States Code, is amended by inserting after ''including'' the following: ''facilities to provide or support elementary or secondary education,''.

Subtitle B—Real Property and Facilities Administration

SEC. 2811. RESTORATION OF DEPARTMENT OF DEFENSE LANDS USED BY ANOTHER FEDERAL AGENCY.

(a) INCLUSION OF RESTORATION AS CONTRACT TERM.—Section 2691 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(c) As a condition of any lease, permit, license, or other grant of access entered into by the Secretary of a military department with another Federal agency authorizing the other agency to use lands under the control of the Secretary, the Secretary may require the other agency to agree to remove any improvements and to take any other action necessary in the judgment of the Secretary to restore the land used by the agency to the condition the land was in before its use by the agency. In lieu of performing the work itself, the Federal agency may elect, with the consent of the Secretary, to reimburse the Secretary for the costs incurred by the military department to perform the removal and restoration work.''.

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

''§ 2691. Restoration of land used by permit or lease''.

(2) The table of sections at the beginning of chapter 159 of title 10, United States Code, is amended by striking the item relating to section 2691 and inserting in lieu thereof the following new item:

(a) ACCESS ENHANCEMENT.—Section 103 of the Sikes Act (16 U.S.C. 670c) is amended by adding at the end the following new subsections:

''(b) ACCESS FOR DISABLED VETERANS, MILITARY DEPENDENTS WITH DISABILITIES, AND OTHER PERSONS WITH DISABILITIES.—(1) In developing facilities and conducting programs for public outdoor recreation at military installations, consistent with the primary military mission of the installations, the Secretary of Defense shall ensure, to the maximum extent practicable, that outdoor recreation opportunities (including fishing, hunting, trapping, wildlife viewing, boating, and camping) made available to the public also provide equal access for persons described in paragraph (2) when topographic, vegetative, and water resources allow equal access without substantial modification to the natural environment.

''(2) Persons referred to in paragraph (1) are disabled veterans, military dependents with disabilities, and other persons with disabilities.

''(3) The Secretary of Defense shall carry out this subsection in consultation with the Secretary of Veterans Affairs, national service, military, and veterans organizations, and sporting organizations in the private sector that participate in outdoor recreation projects for persons described in paragraph (2).

''(c) ACCEPTANCE OF DONATIONS.—In connection with the facilities and programs for public outdoor recreation at military installations, in particular the requirement under subsection (b) to provide equal access for persons described in paragraph (2) of such subsection, the Secretary of Defense may accept—

''(1) the voluntary services of individuals and organizations; and

''(2) donations of money or property, whether real, personal, mixed, tangible, or intangible.

''(d) TREATMENT OF VOLUNTEERS.—A volunteer under subsection (c) shall not be considered to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits, except that—

''(1) for the purposes of the tort claims provisions of chapter 171 of title 28, United States Code, the volunteer shall be considered to be a Federal employee; and

''(2) for the purposes of subchapter I of chapter 81 of title 5, United States Code, relating to compensation to Federal employees for work injuries, the volunteer shall be considered to be an employee, as defined in section 8101(1)(B) of title 5, United States Code, and the provisions of such subchapter shall apply.''.

(b) CONFORMING AMENDMENT.—Such section is further amended by striking out ''SEC. 103.'' and inserting in lieu thereof the following:

''SEC. 103. PROGRAM FOR PUBLIC OUTDOOR RECREATION.

''(a) PROGRAM AUTHORIZED.—''.

SEC. 2812. OUTDOOR RECREATION DEVELOPMENT ON MILITARY INSTALLATIONS FOR DISABLED VETERANS, MILITARY DEPENDENTS WITH DISABILITIES, AND OTHER PERSONS WITH DISABILITIES.

(a) ACCESS ENHANCEMENT.—Section 103 of the Sikes Act (16 U.S.C. 670c) is amended by adding at the end the following new subsections:

''(b) ACCESS FOR DISABLED VETERANS, MILITARY DEPENDENTS WITH DISABILITIES, AND OTHER PERSONS WITH DISABILITIES.—(1) In developing facilities and conducting programs for public outdoor recreation at military installations, consistent with the primary military mission of the installations, the Secretary of Defense shall ensure, to the maximum extent practicable, that outdoor recreation opportunities (including fishing, hunting, trapping, wildlife viewing, boating, and camping) made available to the public also provide equal access for persons described in paragraph (2) when topographic, vegetative, and water resources allow equal access without substantial modification to the natural environment.

''(2) Persons referred to in paragraph (1) are disabled veterans, military dependents with disabilities, and other persons with disabilities.

''(3) The Secretary of Defense shall carry out this subsection in consultation with the Secretary of Veterans Affairs, national service, military, and veterans organizations, and sporting organizations in the private sector that participate in outdoor recreation projects for persons described in paragraph (2).

''(c) ACCEPTANCE OF DONATIONS.—In connection with the facilities and programs for public outdoor recreation at military installations, in particular the requirement under subsection (b) to provide equal access for persons described in paragraph (2) of such subsection, the Secretary of Defense may accept—

''(1) the voluntary services of individuals and organizations; and

''(2) donations of money or property, whether real, personal, mixed, tangible, or intangible.

''(d) TREATMENT OF VOLUNTEERS.—A volunteer under subsection (c) shall not be considered to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits, except that—

''(1) for the purposes of the tort claims provisions of chapter 171 of title 28, United States Code, the volunteer shall be considered to be a Federal employee; and

''(2) for the purposes of subchapter I of chapter 81 of title 5, United States Code, relating to compensation to Federal employees for work injuries, the volunteer shall be considered to be an employee, as defined in section 8101(1)(B) of title 5, United States Code, and the provisions of such subchapter shall apply.''.

(b) CONFORMING AMENDMENT.—Such section is further amended by striking out ''SEC. 103.'' and inserting in lieu thereof the following:

''SEC. 103. PROGRAM FOR PUBLIC OUTDOOR RECREATION.

''(a) PROGRAM AUTHORIZED.—''.

SEC. 2813. REPORT ON USE OF UTILITY SYSTEM CONVEYANCE AUTHORITY.

(a) REPORT REQUIRED.—Not later than March 1, 1999, the Secretary of each military department shall submit to Congress a report containing—

(1) the criteria to be used by the Secretary to select utility systems, and related real property, under the jurisdiction of the Secretary for conveyance to a municipal, private, regional, district, or cooperative utility company or other entity under the authority of section 2688 of title 10, United States Code; and

(2) a description of the manner in which the Secretary will ensure that any such conveyance does not adversely affect the national security of the United States.

(b) LIST OF LIKELY SYSTEMS FOR CONVEYANCE.—The report submitted by the Secretary of a military department under subsection (a) shall also contain a list of the utility systems, including the locations of the utility systems, that, as of the date of the submission of the report, the Secretary considers are likely to be conveyed under the authority of section 2688 of title 10, United States Code.

Subtitle C—Defense Base Closure and Realignment

SEC. 2821. PAYMENT OF STIPULATED PENALTIES ASSESSED UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980 IN CONNECTION WITH MCCLELLAN AIR FORCE BASE, CALIFORNIA.

(a) SOURCE OF PAYMENT.—Notwithstanding subsection (b) of section 2906(a) of the Defense Base Closure and Realignment Act of 1990 (part A of Title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), the Secretary of Defense may use amounts in the Department of Defense Base Closure Account 1990 established under subsection (a) of such section to pay stipulated penalties assessed under the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. 9601 et seq.) against McClellan Air Force Base, California.

(b) AMOUNT OF PAYMENT.—The amount expended under the authority of subsection (a) may not exceed $15,000.

SEC. 2822. ELIMINATION OF WAIVER AUTHORITY REGARDING PROHIBITION AGAINST CERTAIN CONVEYANCES OF PROPERTY AT NAVAL STATION, LONG BEACH, CALIFORNIA.

Section 2826 of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 2001) is amended by striking out subsection (e).

Subtitle D—Land Conveyances

PART I—ARMY CONVEYANCES

SEC. 2831. LAND CONVEYANCE, ARMY RESERVE CENTER, MASSENA, NEW YORK.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Village of Massena, New York (in this section referred to as the ''Village''), all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon) consisting of the Army Reserve Center in Massena, New York, for the purpose of permitting the Village to develop the parcel for public benefit, including the development of municipal office space.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Village.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2832. LAND CONVEYANCE, ARMY RESERVE CENTER, OGDENSBURG, NEW YORK.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the City of Ogdensburg, New York (in this section referred to as the ''City''), all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon) consisting of the Army Reserve Center in Ogdensburg, New York, for the purpose of permitting the City to develop the parcel for public benefit, including the development of municipal office space.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2833. LAND CONVEYANCE, ARMY RESERVE CENTER, JAMESTOWN, OHIO.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Greeneview Local School District of Jamestown, Ohio, all right, title, and interest of the United States in and to a parcel of excess Federal real property, including improvements thereon, that is located at 5693 Plymouth Road in Jamestown, Ohio, and contains an Army Reserve Center.

(b) PURPOSE OF CONVEYANCE.—The purpose of the conveyance under subsection (a) is to permit the Greeneview Local School District to retain and use the conveyed property for the benefit of the students of Greeneview schools.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Greeneview Local School District.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2834. LAND CONVEYANCE, STEWART ARMY SUB-POST, NEW WINDSOR, NEW YORK.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Town of New Windsor, New York (in this section referred to as the ''Town''), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 291 acres at the Stewart Army Sub-Post in New Windsor, New York.

(b) EXCLUSION.—The real property to be conveyed under subsection (a) does not include any portion of the approximately 89.2-acre parcel at Stewart Army Sub-Post that is proposed for transfer to the jurisdiction and control of the Marine Corps or the approximately 22-acre parcel at Stewart Army Sub-Post that is proposed for transfer to the jurisdiction and control of the Army Reserve.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Town.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2835. LAND CONVEYANCE, INDIANA ARMY AMMUNITION PLANT, CHARLESTOWN, INDIANA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the Indiana Army Ammunition Plant Reuse Authority (in this section referred to as the ''Reuse Authority'') all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 4660 acres located at the Indiana Army Ammunition Plant, Charlestown, Indiana, for the purpose of developing the parcel as an industrial park to replace all or part of the economic activity lost at the inactivated plant.

(b) CONSIDERATION.—Except as provided in subsection (d), as consideration for the conveyance under subsection (a), the Reuse Authority

shall pay to the Secretary an amount equal to the fair market value of the conveyed property as of the time of the conveyance, determined by the Secretary in accordance with Federal appraisal standards and procedures.

(c) TIME FOR PAYMENT.—The consideration required under subsection (b) shall be paid by the Reuse Authority at the end of the 10-year period beginning on the date on which the conveyance under subsection (a) is completed.

(d) EFFECT OF RECONVEYANCE OR LEASE.—(1) If, during the 10-year period specified in subsection (c), the Reuse Authority reconveys all or any part of the property conveyed under subsection (a), the Reuse Authority shall pay to the United States an amount equal to the fair market value of the reconveyed property as of the time of the reconveyance, excluding the value of any improvements made to the property by the Reuse Authority, determined by the Secretary in accordance with Federal appraisal standards and procedures.

(2) The Secretary may treat a lease of the property within such 10-year period as a reconveyance if the Secretary determines that the lease is being used to avoid application of paragraph (1).

(e) DEPOSIT OF PROCEEDS.—The Secretary shall deposit any proceeds received under subsection (b) or (d) in the special account established pursuant to section 204(h)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)(2)).

(f) ADMINISTRATIVE EXPENSES.—In connection with the conveyance under subsection (a), the Secretary may accept amounts provided by the Reuse Authority or other persons to cover administrative expenses incurred by the Secretary in making the conveyance. Amounts received under this subsection for administrative expenses shall be credited to the appropriation, fund, or account from which the expenses were paid and shall be available, to the extent provided in appropriation Acts, for the same purposes and subject to the same limitations as other funds in such appropriation, fund, or account.

(g) DESCRIPTION OF PROPERTY.—The property to be conveyed under subsection (a) includes the administrative area of the Indiana Army Ammunition Plant as well as open space in the southern end of the plant. The exact acreage and legal description of the property to be conveyed shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Reuse Authority.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(i) ADDITIONAL CONVEYANCE FOR RECREATIONAL PURPOSES.—Section 2858(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 571), as amended by section 2838 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2006), is further amended by adding at the end the following new paragraph:

''(3) The Secretary may also convey to the State, without consideration, another parcel of real property at the Indiana Army Ammunition Plant consisting of approximately 2,000 acres of additional riverfront property in order to connect the parcel conveyed under paragraph (2) with the parcels of Charlestown State Park conveyed to the State under paragraph (1) and title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).''.

SEC. 2836. LAND CONVEYANCE, VOLUNTEER army AMMUNITION PLANT, CHATTANOOGA, TENNESSEE.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to Hamilton County, Tennessee (in this section referred to as the ''County''), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 1033 acres located at the Volunteer Army Ammunition Plant, Chattanooga, Tennessee, for the purpose of developing the parcel as an industrial park to replace all or part of the economic activity lost at the inactivated plant.

(b) CONSIDERATION.—Except as provided in subsection (d), as consideration for the conveyance under subsection (a), the County shall pay to the Secretary an amount equal to the fair market value of the conveyed property as of the time of the conveyance, determined by the Secretary in accordance with Federal appraisal standards and procedures.

(c) TIME FOR PAYMENT.—The consideration required under subsection (b) shall be paid by the County at the end of the 10-year period beginning on the date on which the conveyance under subsection (a) is completed.

(d) EFFECT OF RECONVEYANCE OR LEASE.—(1) If, during the 10-year period specified in subsection (c), the County reconveys all or any part of the property conveyed under subsection (a), the County shall pay to the United States an amount equal to the fair market value of the reconveyed property as of the time of the reconveyance, excluding the value of any improvements made to the property by the County, determined by the Secretary in accordance with Federal appraisal standards and procedures.

(2) The Secretary may treat a lease of the property within such 10-year period as a reconveyance if the Secretary determines that the lease is being used to avoid application of paragraph (1).

(e) DEPOSIT OF PROCEEDS.—The Secretary shall deposit any proceeds received under subsection (b) or (d) in the special account established pursuant to section 204(h)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)(2)).

(f) EFFECT ON EXISTING LEASES.—The conveyance of the real property under subsection (a) shall not affect the terms or length of any contract entered into by the Secretary before the date of the enactment of this Act with regard to the property to be conveyed.

(g) ADMINISTRATIVE EXPENSES.—In connection with the conveyance under subsection (a), the Secretary may accept amounts provided by the County or other persons to cover administrative expenses incurred by the Secretary in making the conveyance. Amounts received under this subsection for administrative expenses shall be credited to the appropriation, fund, or account from which the expenses were paid and shall be available, to the extent provided in appropriation Acts, for the same purposes and subject to the same limitations as other funds in such appropriation, fund, or account.

(h) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the County.

(i) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2837. RELEASE OF REVERSIONARY INTEREST OF UNITED STATES IN FORMER REDSTONE ARMY ARSENAL PROPERTY CONVEYED TO ALABAMA SPACE SCIENCE EXHIBIT COMMISSION.

(a) RELEASE AUTHORIZED.—The Secretary of the Army may release, without consideration and to such extent as the Secretary considers appropriate to protect the interests of the United States, the reversionary interests of the United States in the real property described in subsection (b), which were retained by the United States when the property was conveyed to the Alabama Space Science Exhibit Commission, an agency of the State of Alabama. The release shall be executed in the manner provided in this section.

(b) DESCRIPTION OF PROPERTY.—The real property referred to in this section is the real property conveyed to the Alabama Space Science Exhibit Commission under the authority of the following provisions of law:

(1) The first section of Public Law 90–276 (82 Stat. 68).

(2) Section 813 of the Military Construction Authorization Act, 1980 (Public Law 96–125; 93 Stat. 952).

(3) Section 813 of the Military Construction Authorization Act, 1984 (Public Law 98–115; 97 Stat. 790).

(c) RELEASE, WAIVER, OR CONVEYANCE OF OTHER RIGHTS, TERMS, AND CONDITIONS.—As part of the release under subsection (a), the Secretary may release, waive, or convey, without consideration and to such extent as the Secretary considers appropriate to protect the interests of the United States—

(1) any and all other rights retained by the United States in and to the real property described in subsection (b) when the property was conveyed to the Alabama Space Science Exhibit Commission; and

(2) any and all terms and conditions and restrictions on the use of the real property imposed as part of the conveyances described in subsection (b).

(d) CONDITIONS ON RELEASE, WAIVER, OR CONVEYANCE.—(1) The Secretary may execute the release under subsection (a) or a release, waiver, or conveyance under subsection (c) only after—

(A) the Secretary approves of the master plan prepared by the Alabama Space Science Exhibit Commission, as such plan may exist or be revised from time to time, for development of the real property described in subsection (b); and

(2) the installation commander at Redstone Arsenal, Alabama, certifies to the Secretary that the release, waiver, or conveyance is consistent with the master plan.

(2) A new facility or structure may not be constructed on the real property described in subsection (b) unless the facility or structure is included in the master plan, which has been approved and certified as provided in paragraph (1).

(e) INSTRUMENT OF RELEASE, WAIVER, OR CONVEYANCE.—In making a release, waiver, or conveyance authorized by this section, the Secretary shall execute and file in the appropriate office or offices a deed of release, amended deed, or other appropriate instrument effectuating the release, waiver, or conveyance.

(f) EFFECT OF RELEASE.—Except as provided in subsection (g), upon release of any reversionary interest under this section, the right, title and interest of the Alabama Space Science Exhibit Commission in and to the real property described in subsection (b) shall, to the extent of the release, no longer be subject to the conditions prescribed in the provisions of law specified in such subsection. Except as provided in subsection (g), the Alabama Space Science Exhibit Commission may use the real property for any such purpose or purposes as it considers appropriate consistent with the master plan approved and certified as provided in subsection (d), and the real property may be conveyed by the Alabama Space Science Exhibit Commission without restriction and unencumbered by any claims or rights of the United States with respect to the property, subject to such rights, terms, and conditions of the United States previously imposed on the real property and not conveyed or released by the Secretary under subsection (c).

(g) EXCEPTIONS.—(1) Conveyance of the drainage and utility easement reserved to the United States pursuant to section 813(b)(3) of the Military Construction Authorization Act, 1984 (Public Law 98–115; 97 Stat. 791), is not authorized under this section.

(2) In no event may title to any portion of the real property described in subsection (b) be conveyed by the Alabama Space Science Exhibit Commission or any future deed holder of the real property to any person other than an agency, instrumentality, political subdivision, municipal corporation, or public corporation of the State of Alabama, and the land use of such conveyed property may not be changed without the approval of the Secretary.

PART II—NAVY CONVEYANCES

SEC. 2841. EASEMENT, MARINE CORPS BASE, CAMP PENDLETON, CALIFORNIA.

(a) EASEMENT AUTHORIZED.—The Secretary of the Navy may grant an easement, in perpetuity, to the Foothill/Eastern Transportation Corridor Agency (in this section referred to as the ''Agency'') over a parcel of real property at Marine Corps Base, Camp Pendleton, California, consisting of approximately 340 acres to permit the Recipient of the easement to construct, operate, and maintain a restricted access highway. The area covered by the easement shall include slopes and all necessary incidents thereto.

(b) CONSIDERATION.—As consideration for the conveyance of the easement under subsection (a), the Agency shall pay to the United States an amount equal to the fair market value of the easement, as determined by an independent appraisal satisfactory to the Secretary and paid for by the Agency.

(c) USE OF PROCEEDS.—In such amounts as are provided in advance in appropriation Acts, the Secretary shall use the funds paid by the Agency under subsection (b) to carry out one or more of the following programs at Camp Pendleton:

(1) Enhancement of access from Red, White, and Green Beach under the I–5 interstate highway and railroad crossings to inland areas.

(2) Improvement of roads and bridge structures in the range and training area.

(3) Realignment of Basilone Road.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the easement to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Agency.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the easement under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2842. LAND CONVEYANCE, NAVAL RESERVE READINESS CENTER, PORTLAND, MAINE.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the Gulf of Maine Aquarium Development Corporation, Portland, Maine (in this section referred to as the ''Corporation''), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon and any appurtenant interest in submerged lands thereon, consisting of approximately 3.72 acres in Portland, Maine, which is the site of the Naval Reserve Readiness Center, Portland, Maine.

(b) PURPOSE.—The purpose of the conveyance under subsection (a) is to facilitate economic development in accordance with the plan of the Corporation for the construction of an aquarium and marine research facility in Portland, Maine.

(c) CONSIDERATION.—(1) As consideration for the conveyance authorized by subsection (a), the Corporation shall provide for such facilities as the Secretary determines appropriate for the Naval Reserve to replace the facilities conveyed under that subsection.

(2) To provide the replacement facilities, the Corporation may—

(A) convey to the United States a parcel of real property determined by the Secretary to be an appropriate location for the facilities and design and construct the facilities on the conveyed parcel; or

(B) design and construct the facilities on such parcel of real property under the jurisdiction of the Secretary as the Secretary shall specify.

(3) The Secretary shall select the form in which the consideration under paragraph (2) will be provided.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a), and of the real property, if any, to be conveyed under subsection (c), shall be determined by surveys satisfactory to the Secretary. The cost of the surveys shall be borne by the Corporation.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interest of the United States.

PART III—AIR FORCE CONVEYANCES

SEC. 2851. LAND CONVEYANCE, LAKE CHARLES AIR FORCE STATION, LOUISIANA.

(a) CONVEYANCES AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to McNeese State University of Louisiana (in this section referred to as the ''University'') all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon) consisting of approximately 4.38 at Lake Charles Air Force Station, Louisiana, for the purpose of permitting the University to use the parcel for educational purposes and agricultural research.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the University.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2852. LAND CONVEYANCE, AIR FORCE HOUSING FACILITY, LA JUNTA, COLORADO.

(a) CONVEYANCE REQUIRED.—The Secretary of the Air Force may convey, without consideration, to the City of La Junta, Colorado (in this section referred to as the ''City''), all right, title, and interest of the United States in and to the unused Air Force housing facility, consisting of approximately 28 acres and improvements thereon, located within the southern most boundary of the City.

(b) PURPOSE OF CONVEYANCE.—The purpose of the conveyance under subsection (a) is to permit the city to develop the conveyed property for housing and educational purposes.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

Subtitle E—Other Matters

SEC. 2861. REPEAL OF PROHIBITION ON JOINT USE OF GRAY ARMY AIRFIELD, FORT HOOD, TEXAS, WITH CIVIL AVIATION.

Section 319 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661; 100 Stat. 3855) is repealed.

SEC. 2862. DESIGNATION OF BUILDING CONTAINING NAVY AND MARINE CORPS RESERVE CENTER, AUGUSTA, GEORGIA.

The building containing the Navy and Marine Corps Reserve Center located at 2869 Central Avenue in Augusta, Georgia, shall be known and designated as the ''A. James Dyess Building''.

SEC. 2863. EXPANSION OF ARLINGTON NATIONAL CEMETERY.

(a) LAND TRANSFER, NAVY ANNEX, ARLINGTON, VIRGINIA.—

(1) IN GENERAL.—The Secretary of Defense shall provide for the transfer to the Secretary of the Army of administrative jurisdiction over the following parcels of land situated in Arlington, Virginia:

(A) Certain lands which comprise approximately 26 acres bounded by Columbia Pike to the south and east, Oak Street to the west, and the boundary wall of Arlington National Cemetery to the north including Southgate Road.

(B) Certain lands which comprise approximately 8 acres bounded by Shirley Memorial Boulevard (Interstate 395) to the south, property of the Virginia Department of Transportation to the west, Columbia Pike to the north, and Joyce Street to the east.

(C) Certain lands which comprise approximately 2.5 acres bounded by Shirley Memorial Boulevard (Interstate 395) to the south, Joyce Street to the west, Columbia Pike to the north, and the cloverleaf interchange of Route 100 and Columbia Pike to the east.

(2) USE OF LAND.—The Secretary of the Army shall incorporate the parcels of land transferred under paragraph (1) into Arlington National Cemetery.

(3) REMEDIATION OF LAND FOR CEMETERY USE.—Before the transfer of administrative jurisdiction over the parcels of land under paragraph (1), the Secretary of Defense shall provide for the removal of any improvements on the parcels of land and, in consultation with the Superintendent of Arlington National Cemetery, the preparation of the land for use for interment of remains of individuals in Arlington National Cemetery.

(4) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report explaining in detail the measures required to prepare the land for use as a part of Arlington National Cemetery.

(5) DEADLINE.—The Secretary of Defense shall complete the transfer of administrative jurisdiction over the parcels of land under this subsection not later than the earlier of—

(A) January 1, 2010; or

(B) the date when those parcels are no longer required (as determined by the Secretary) for use as temporary office space due to the renovation of the Pentagon.

(b) MODIFICATION OF BOUNDARY OF ARLINGTON NATIONAL CEMETERY.—.

(1) IN GENERAL.—The Secretary of the Army shall modify the boundary of Arlington National Cemetery to include the following parcels of land situated in Fort Myer, Arlington, Virginia:

(A) Certain lands which comprise approximately 5 acres bounded by the Fort Myer Post Traditional Chapel to the southwest, McNair Road to the northwest, the Vehicle Maintenance Complex to the northeast, and the masonry wall of Arlington National Cemetery to the southeast.

(B) Certain lands which comprise approximately 3 acres bounded by the Vehicle Maintenance Complex to the southwest, Jackson Avenue to the northwest, the water pumping station to the northeast, and the masonry wall of Arlington National Cemetery to the southeast.

(2) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Army shall submit to Congress a report describing additional parcels of land located in Fort Myer, Arlington, Virginia, that may be suitable for use to expand Arlington National Cemetery.

(3) SURVEY.—The Secretary of the Army may determine the exact acreage and legal description of the parcels of land described in paragraph (1) by a survey.

SEC. 2864. REPORTING REQUIREMENTS UNDER DEMONSTRATION PROJECT FOR PURCHASE OF FIRE, SECURITY, POLICE, PUBLIC WORKS, AND UTILITY SERVICES FROM LOCAL GOVERNMENT AGENCIES.

Section 816(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2820) is amended by striking out ''and 1998'' and inserting in lieu thereof ''through 2000''.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

SEC. 3101. WEAPONS ACTIVITIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for weapons activities in carrying out programs necessary for national security in the amount of $4,142,100,000, to be allocated as follows:

(1) STOCKPILE STEWARDSHIP.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for stockpile stewardship in carrying out weapons activities necessary for national security programs in the amount of $2,138,375,000, to be allocated as follows:

(A) For core stockpile stewardship, $1,591,375,000, to be allocated as follows:

(i) For operation and maintenance, $1,475,832,000.

(ii) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $115,543,000, to be allocated as follows:

Project 99–D–102, rehabilitation of maintenance facility, Lawrence Livermore National Laboratory, Livermore, California, $6,500,000.

Project 99–D–103, isotope sciences facility, Lawrence Livermore National Laboratory, Livermore, California, $4,000,000.

Project 99–D–104, protection of real property (roof reconstruction, Phase II), Lawrence Livermore National Laboratory, Livermore, California, $7,300,000.

Project 99–D–105, central health physics calibration facility, Los Alamos National Laboratory, Los Alamos, New Mexico, $3,900,000.

Project 99–D–106, model validation and system certification test center, Sandia National Laboratories, Albuquerque, New Mexico, $1,600,000.

Project 99–D–107, joint computational engineering laboratory, Sandia National Laboratories, Albuquerque, New Mexico, $1,800,000.

Project 99–D–108, renovate existing roadways, Nevada Test Site, Nevada, $2,000,000.

Project 97–D–102, dual-axis radiographic hydrotest facility, Los Alamos National Laboratory, Los Alamos, New Mexico, $36,000,000.

Project 96–D–102, stockpile stewardship facilities revitalization, Phase VI, various locations, $20,423,000.

Project 96–D–103, ATLAS, Los Alamos National Laboratory, Los Alamos, New Mexico, $6,400,000.

Project 96–D–104, processing and environmental technology laboratory, Sandia National Laboratories, Albuquerque, New Mexico, $18,920,000.

Project 96–D–105, contained firing facility addition, Lawrence Livermore National Laboratory, Livermore, California, $6,700,000.

(B) For inertial fusion, $498,000,000, to be allocated as follows:

(i) For operation and maintenance, $213,800,000.

(ii) For the following plant project (including maintenance, restoration, planning, construction, acquisition, and modification of facilities, and land acquisition related thereto), $284,200,000, to be allocated as follows:

Project 96–D–111, national ignition facility, Lawrence Livermore National Laboratory, Livermore, California, $284,200,000.

(C) For technology partnership and education, $49,000,000, to be allocated as follows:

(i) For technology partnership, $40,000,000.

(ii) For education, $9,000,000.

(2) STOCKPILE MANAGEMENT.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for stockpile management in carrying out weapons activities necessary for national security programs in the amount of $2,134,625,000, to be allocated as follows:

(A) For operation and maintenance, $2,019,303,000.

(B) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $115,322,000, to be allocated as follows:

Project 99–D–122, rapid reactivation, various locations, $11,200,000.

Project 99–D–123, replace mechanical utility systems Y–12, Oak Ridge, Tennessee, $1,900,000.

Project 99–D–125, replace boilers and controls, Kansas City Plant, Kansas City, Missouri, $1,000,000.

Project 99–D–127, stockpile management restructuring initiative, Kansas City Plant, Kansas City, Missouri, $13,700,000.

Project 99–D–128, stockpile management restructuring initiative, Pantex consolidation, Amarillo, Texas, $1,108,000.

Project 99–D–132, stockpile management restructuring initiative, nuclear material safeguards and security upgrades project, Los Alamos National Laboratory, Los Alamos, New Mexico, $9,700,000.

Project 98–D–123, stockpile management restructuring initiative, tritium factory modernization and consolidation, Savannah River Site, Aiken, South Carolina, $27,500,000.

Project 98–D–124, stockpile management restructuring initiative, Y–12 Plant consolidation, Oak Ridge, Tennessee, $10,700,000.

Project 97–D–122, nuclear materials storage facility renovation, Los Alamos National Laboratory, Los Alamos, New Mexico, $9,164,000.

Project 97–D–123, structural upgrades, Kansas City Plant, Kansas City, Missouri, $6,400,000.

Project 96–D–122, sewage treatment quality upgrade (STQU), Pantex Plant, Amarillo, Texas, $3,700,000.

Project 95–D–102, chemistry and metallurgy research (CMR) upgrades project, Los Alamos National Laboratory, Los Alamos, New Mexico, $16,000,000.

Project 93–D–122, life safety upgrades, Y–12 Plant, Oak Ridge, Tennessee, $3,250,000.

(3) PROGRAM DIRECTION.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for program direction in carrying out weapons activities necessary for national security programs in the amount of $240,000,000.

(b) ADJUSTMENTS.—

(1) CONSTRUCTION.—The total amount authorized to be appropriated pursuant to paragraphs (1)(A)(ii), (1)(B)(ii), and (2)(B) of subsection (a) is the sum of the amounts authorized to be appropriated in those paragraphs, reduced by the sum of $30,000,000.

(2) NON-CONSTRUCTION.—The total amount authorized to be appropriated pursuant to paragraphs (1)(A)(i), (1)(B)(i), (1)(C), (2)(A), and (3) of subsection (a) is the sum of the amounts authorized to be appropriated in those paragraphs, reduced by the sum of $340,900,000, to be derived from use of prior year balances.

SEC. 3102. DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for environmental restoration and waste management in carrying out programs necessary for national security in the amount of $5,706,650,000, to be allocated as follows:

(1) CLOSURE PROJECTS.—For closure projects carried out in accordance with section 3143 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2836; 42 U.S.C. 7274n) in the amount of $1,046,240,000.

(2) PRIVATIZATION.—For privatization projects in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $286,857,000.

(3) SITE PROJECT AND COMPLETION.—For site project and completion in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $1,085,253,000, to be allocated as follows:

(A) For operation and maintenance, $886,090,000.

(B) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $199,163,000, to be allocated as follows:

Project 99–D–402, tank farm support services, F&H areas, Savannah River Site, Aiken, South Carolina, $2,745,000.

Project 99–D–404, health physics instrumentation laboratory, Idaho National Engineering Laboratory, Idaho, $950,000.

Project 98–D–401, H-tank farm storm water systems upgrade, Savannah River Site, Aiken, South Carolina, $3,120,000.

Project 98–D–453, plutonium stabilization and handling system for plutonium finishing plant, Richland, Washington, $26,814,000.

Project 98–D–700, road rehabilitation, Idaho National Engineering Laboratory, Idaho, $7,710,000.

Project 97–D–450, Actinide packaging and storage facility, Savannah River Site, Aiken, South Carolina, $79,184,000.

Project 97–D–470, environmental monitoring laboratory, Savannah River Site, Aiken, South Carolina, $7,000,000.

Project 96–D–406, spent nuclear fuels canister storage and stabilization facility, Richland, Washington, $38,680,000.

Project 96–D–408, waste management upgrades, Kansas City Plant, Kansas City, Missouri, and Savannah River Site, Aiken, South Carolina, $4,512,000.

Project 96–D–464, electrical and utility systems upgrade, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $11,544,000.

Project 96–D–471, chlorofluorocarbon heating, ventilation, and air conditioning and chiller retrofit, Savannah River Site, Aiken, South Carolina, $8,000,000.

Project 95–D–456, security facilities consolidation, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $485,000.

Project 92–D–140, F&H canyon exhaust upgrades, Savannah River Site, Aiken, South Carolina, $3,667,000.

Project 86–D–103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, Livermore, California, $4,752,000.

(4) POST-2006 COMPLETION.—For post-2006 project completion in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $2,765,451,000, to be allocated as follows:

(A) For operation and maintenance, $2,684,195,000.

(B) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $81,256,000, to be allocated as follows:

Project 99–D–403, privatization phase I infrastructure support, Richland, Washington, $14,800,000.

Project 97–D–402, tank farm restoration and safe operations, Richland, Washington, $22,723,000.

Project 96–D–408, waste management upgrades, Richland, Washington, $171,000.

Project 94–D–407, initial tank retrieval systems, Richland, Washington, $32,860,000.

Project 93–D–187, high-level waste removal from filled waste tanks, Savannah River Site, Aiken, South Carolina, $10,702,000.

(5) SCIENCE AND TECHNOLOGY.—For science and technology in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $270,750,000.

(6) PROGRAM DIRECTION.—For program direction in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $346,199,000.

(b) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1), (3)(A), (4)(A), (5), and (6) of subsection (a) is the sum of the amounts authorized to be appropriated in those paragraphs, reduced by the sum of $94,100,000, to be derived from use of prior year balances.

SEC. 3103. OTHER DEFENSE ACTIVITIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for other defense activities in carrying out programs necessary for national security in the amount of $1,720,760,000, to be allocated as follows:

(1) NONPROLIFERATION AND NATIONAL SECURITY.—For nonproliferation and national security, $693,900,000, to be allocated as follows:

(A) For verification and control technology, $500,500,000, to be allocated as follows:

(i) For nonproliferation and verification research and development, $210,000,000.

(ii) For arms control, $256,900,000.

(iii) For intelligence, $33,600,000.

(B) For nuclear safeguards and security, $53,200,000.

(C) For security investigations, $30,000,000.

(D) For emergency management, $21,300,000.

(E) For program direction, $88,900,000.

(2) WORKER AND COMMUNITY TRANSITION ASSISTANCE.—For worker and community transition assistance, $45,000,000, to be allocated as follows:

(A) For worker and community transition, $41,000,000.

(B) For program direction, $4,000,000.

(3) FISSILE MATERIALS CONTROL AND DISPOSITION.—For fissile materials control and disposition, $168,960,000, to be allocated as follows:

(A) For operation and maintenance, $111,372,000.

(B) For program direction, $4,588,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $53,000,000, to be allocated as follows:

Project 99–D–141, pit disassembly and conversion facility, various locations, $25,000,000.

Project 99–D–143, mixed oxide fuel fabrication facility, various locations, $28,000,000.

(4) ENVIRONMENT, SAFETY, AND HEALTH.—For environment, safety, and health, defense, $94,000,000, to be allocated as follows:

(A) For the Office of Environment, Safety, and Health (Defense), $89,231,000.

(B) For program direction, $4,769,000.

(5) OFFICE OF HEARINGS AND APPEALS.—For the Office of Hearings and Appeals, $2,400,000.

(6) INTERNATIONAL NUCLEAR SAFETY.—For international nuclear safety, $35,000,000.

(7) NAVAL REACTORS.—For naval reactors, $681,500,000, to be allocated as follows:

(A) For naval reactors development, $661,400,000, to be allocated as follows:

(i) For operation and maintenance, $639,600,000.

(ii) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $21,800,000, to be allocated as follows:

GPN–101 general plant projects, various locations, $9,000,000.

Project 98–D–200, site laboratory/facility upgrade, various locations, $7,000,000.

Project 90–N–102, expended core facility dry cell project, Naval Reactors Facility, Idaho, $5,800,000.

(B) For program direction, $20,100,000.

(b) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to this section is the sum of the amounts authorized to be appropriated in paragraphs (1) through (7) of subsection (a) reduced by the sum of $20,000,000.

SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of $190,000,000.

Subtitle B—Recurring General Provisions

SEC. 3121. REPROGRAMMING.

(a) IN GENERAL.—Until the Secretary of Energy submits to the congressional defense committees the report referred to in subsection (b) and a period of 30 days has elapsed after the date on which such committees receive the report, the Secretary may not use amounts appropriated pursuant to this title for any program—

(1) in amounts that exceed, in a fiscal year—

(A) 110 percent of the amount authorized for that program by this title; or

(B) $1,000,000 more than the amount authorized for that program by this title; or

(2) which has not been presented to, or requested of, Congress.

(b) REPORT.—(1) The report referred to in subsection (a) is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(2) In the computation of the 30-day period under subsection (a), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(c) LIMITATIONS.—(1) In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

(2) Funds appropriated pursuant to this title may not be used for an item for which Congress has specifically denied funds.

SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS.

(a) IN GENERAL.—The Secretary of Energy may carry out any construction project under the general plant projects authorized by this title if the total estimated cost of the construction project does not exceed $5,000,000.

(b) REPORT TO CONGRESS.—If, at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $5,000,000, the Secretary shall immediately furnish a complete report to the congressional defense committees explaining the reasons for the cost variation.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS.

(a) IN GENERAL.—(1) Except as provided in paragraph (2), construction on a construction project may not be started or additional obligations incurred in connection with the project above the total estimated cost, whenever the current estimated cost of the construction project, which is authorized by section 3101, 3102, or 3103, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(2) An action described in paragraph (1) may be taken if—

(A) the Secretary of Energy has submitted to the congressional defense committees a report on the actions and the circumstances making such action necessary; and

(B) a period of 30 days has elapsed after the date on which the report is received by the committees.

(3) In the computation of the 30-day period under paragraph (2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 3124. FUND TRANSFER AUTHORITY.

(a) TRANSFER TO OTHER FEDERAL AGENCIES.—The Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to this title to other Federal agencies for the performance of work for which the funds were authorized. Funds so transferred may be merged with and be available for the same purposes and for the same period as the authorizations of the Federal agency to which the amounts are transferred.

(b) TRANSFER WITHIN DEPARTMENT OF ENERGY.—(1) Subject to paragraph (2), the Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to this title between any such authorizations. Amounts of authorizations so transferred may be merged with and be available for the same purposes and for the same period as the authorization to which the amounts are transferred.

(2) Not more than five percent of any such authorization may be transferred between authorizations under paragraph (1). No such authorization may be increased or decreased by more than five percent by a transfer under such paragraph.

(c) LIMITATION.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide funds for items relating to activities necessary for national security programs that have a higher priority than the items from which the funds are transferred; and

(2) may not be used to provide funds for an item for which Congress has specifically denied funds.

(d) NOTICE TO CONGRESS.—The Secretary of Energy shall promptly notify the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives of any transfer of funds to or from authorizations under this title.

SEC. 3125. AUTHORITY FOR CONCEPTUAL AND CONSTRUCTION DESIGN.

(a) REQUIREMENT FOR CONCEPTUAL DESIGN.—(1) Subject to paragraph (2) and except as provided in paragraph (3), before submitting to Congress a request for funds for a construction project that is in support of a national security program of the Department of Energy, the Secretary of Energy shall complete a conceptual design for that project.

(2) If the estimated cost of completing a conceptual design for a construction project exceeds $3,000,000, the Secretary shall submit to Congress a request for funds for the conceptual design before submitting a request for funds for the construction project.

(3) The requirement in paragraph (1) does not apply to a request for funds—

(A) for a construction project the total estimated cost of which is less than $5,000,000; or

(B) for emergency planning, design, and construction activities under section 3126.

(b) AUTHORITY FOR CONSTRUCTION DESIGN.—(1) Within the amounts authorized by this title,

the Secretary of Energy may carry out construction design (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such design does not exceed $600,000.

(2) If the total estimated cost for construction design in connection with any construction project exceeds $600,000, funds for such design must be specifically authorized by law.

SEC. 3126. AUTHORITY FOR EMERGENCY PLANNING, DESIGN, AND CONSTRUCTION ACTIVITIES.

(a) AUTHORITY.—The Secretary of Energy may use any funds available to the Department of Energy pursuant to an authorization in this title, including those funds authorized to be appropriated for advance planning and construction design under sections 3101, 3102, and 3103, to perform planning, design, and construction activities for any Department of Energy national security program construction project that, as determined by the Secretary, must proceed expeditiously in order to protect public health and safety, to meet the needs of national defense, or to protect property.

(b) LIMITATION.—The Secretary may not exercise the authority under subsection (a) in the case of any construction project until the Secretary has submitted to the congressional defense committees a report on the activities that the Secretary intends to carry out under this section and the circumstances making such activities necessary.

(c) SPECIFIC AUTHORITY.—The requirement of section 3125(b)(2) does not apply to emergency planning, design, and construction activities conducted under this section.

SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY.

Subject to the provisions of appropriations Acts and section 3121, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3128. AVAILABILITY OF FUNDS.

(a) IN GENERAL.—Except as provided in subsection (b), when so specified in an appropriations Act, amounts appropriated for operation and maintenance or for plant projects may remain available until expended.

(b) EXCEPTION FOR PROGRAM DIRECTION FUNDS.—Amounts appropriated for program direction pursuant to an authorization of appropriations in subtitle A shall remain available to be expended only until the end of fiscal year 2000.

SEC. 3129. TRANSFERS OF DEFENSE ENVIRONMENTAL MANAGEMENT FUNDS.

(a) TRANSFER AUTHORITY FOR DEFENSE ENVIRONMENTAL MANAGEMENT FUNDS.—The Secretary of Energy shall provide the manager of each field office of the Department of Energy with the authority to transfer defense environmental management funds from a program or project under the jurisdiction of the office to another such program or project.

(b) LIMITATIONS.—(1) Only one transfer may be made to or from any program or project under subsection (a) in a fiscal year.

(2) The amount transferred to or from a program or project under subsection (a) may not exceed $5,000,000 in a fiscal year.

(3) A transfer may not be carried out by a manager of a field office under subsection (a) unless the manager determines that the transfer is necessary to address a risk to health, safety, or the environment or to assure the most efficient use of defense environmental management funds at the field office.

(4) Funds transferred pursuant to subsection (a) may not be used for an item for which Congress has specifically denied funds or for a new program or project that has not been authorized by Congress.

(c) EXEMPTION FROM REPROGRAMMING REQUIREMENTS.—The requirements of section 3121 shall not apply to transfers of funds pursuant to subsection (a).

(d) NOTIFICATION.—The Secretary, acting through the Assistant Secretary of Energy for Environmental Management, shall notify Congress of any transfer of funds pursuant to subsection (a) not later than 30 days after such transfer occurs.

(e) DEFINITIONS.—In this section:

(1) The term ''program or project'' means, with respect to a field office of the Department of Energy, any of the following:

(A) A project listed in paragraph (3) or (4) of section 3102.

(B) A program referred to in paragraph (3), (4), or (5) of section 3102.

(C) A project or program not described in subparagraph (A) or (B) that is for environmental restoration or waste management activities necessary for national security programs of the Department, that is being carried out by the office, and for which defense environmental management funds have been authorized and appropriated before the date of enactment of this Act.

(2) The term ''defense environmental management funds'' means funds appropriated to the Department of Energy pursuant to an authorization for carrying out environmental restoration and waste management activities necessary for national security programs.

(f) DURATION OF AUTHORITY.—The managers of the field offices of the Department may exercise the authority provided under subsection (a) during the period beginning on October 1, 1998, and ending on September 30, 1999.

Subtitle C—Program Authorizations, Restrictions, and Limitations

SEC. 3131. PROHIBITION ON FEDERAL LOAN GUARANTEES FOR DEFENSE ENVIRONMENTAL MANAGEMENT PRIVATIZATION PROJECTS.

Section 3132 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2034) is amended by adding at the end the following new subsection:

''(g) PROHIBITION ON LOAN GUARANTEES.—The Secretary of Energy may not guarantee any loan made by a private sector entity to a contractor to pay for any costs (including costs described in subsection (a)(3)) borne by the contractor to carry out a contract entered into under this section.''.

SEC. 3132. EXTENSION OF FUNDING PROHIBITION RELATING TO INTERNATIONAL COOPERATIVE STOCKPILE STEWARDSHIP.

Section 3133(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2036) is amended by striking out ''for fiscal year 1998'' and inserting in lieu thereof ''for any fiscal year''.

SEC. 3133. USE OF CERTAIN FUNDS FOR MISSILE DEFENSE TECHNOLOGY DEVELOPMENT.

Of the funds authorized to be appropriated pursuant to section 3101, the Secretary of Energy shall make available not less than $60,000,000 for the purpose of developing, demonstrating, and testing hit-to-kill interceptor vehicles for theater missile defense systems. The Secretary shall carry out this section in cooperation with the Ballistic Missile Defense Organization of the Department of Defense.

SEC. 3134. SELECTION OF TECHNOLOGY FOR TRITIUM PRODUCTION.

(a) SELECTION OF TECHNOLOGY.—(1) Subject to paragraph (2), the Secretary of Energy shall select a primary technology for the production of tritium not later than December 31, 1999.

(2) The Secretary may not select a primary technology for the production of tritium until the date that is the later of the following:

(A) The date occurring 30 days after the completion of the test program at the Watts Bar Nuclear Station, Tennessee.

(B) The date on which the report required by subsection (b) is submitted.

(b) REPORT.—The Secretary of Energy shall submit to Congress a report on the results of the test program at the Watts Bar Nuclear Station. The report shall include—

(1) data on any leakage of tritium from the test rods;

(2) the amount of tritium produced during the test; and

(3) any other technical findings resulting from the test.

SEC. 3135. LIMITATION ON USE OF CERTAIN FUNDS AT HANFORD SITE.

(a) LIMITATION.—(1) None of the funds described in subsection (b) may be used unless the Secretary of Energy certifies to Congress not later than 90 days after the date of the enactment of this Act that the Department of Energy does not intend to pay overhead costs that exceed more than 33 percent of total contract costs during fiscal year 1999 for the Project Hanford Management Contractors (at the Hanford Site, Richland, Washington), including the prime contractor and subcontractors at any tier (including Enterprise Company contractors).

(2) For purposes of paragraph (1), overhead costs include—

(A) indirect overhead costs, which include all activities whose costs are spread across other accounts of the contractor or site;

(B) support service overhead costs, which include activities or services for which programs pay per unit used;

(C) all fee, awards, and other profit on indirect and support service overhead costs, or fees that are not attributable to performance on a single project;

(D) any portion of Enterprise Company costs for which there is no competitive bid and which, under the prior contract, had been an indirect or service function; and

(E) all computer service and information management costs that had previously been reported in indirect overhead or service center pool accounts.

(b) FUNDS.—The funds referred to in subsection (a) are the following:

(1) $12,000,000 for reactor decontamination and decommissioning, as authorized to be appropriated by section 3102 and allocated under subsection (a)(4)(A).

(2) $18,000,000 for single-shell tank drainage, as authorized to be appropriated by section 3102 and allocated under subsection (a)(4)(A).

(c) USE OF SAVINGS.—The expected savings during fiscal year 1999 from compliance with subsection (a) shall be used at the Hanford Site for ensuring full compliance with the Hanford Federal Facility Agreement and Consent Order and recommendations of the Defense Nuclear Facilities Safety Board.

(d) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) overhead costs for contractors performing environmental cleanup work at defense nuclear facilities are out of control;

(2) some of the increase in overhead costs can be attributed to unnecessary regulation by the Department of Energy; and

(3) the Department of Energy should take whatever actions possible to minimize any increased costs of contractor overhead that are attributable to unnecessary regulation by the Department.

Subtitle D—Other Matters

SEC. 3151. TERMINATION OF WORKER AND COMMUNITY TRANSITION ASSISTANCE.

(a) PROHIBITION.—No funds may be used by the Secretary of Energy after September 30, 2000, to provide worker or community transition assistance with respect to defense nuclear facilities, including assistance provided under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274h).

(b) REPEAL.—Effective October 1, 2000, section 3161 of the National Defense Authorization Act

for Fiscal Year 1993 (42 U.S.C. 7274h) is repealed.

(c) STUDY BY THE GENERAL ACCOUNTING OFFICE.—

(1) STUDY REQUIREMENT.—The Comptroller General shall conduct a study on the effects of workforce restructuring plans for defense nuclear facilities developed pursuant to section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274h).

(2) MATTERS COVERED BY STUDY.—The study shall cover the four-year period preceding the date of the enactment of this Act and shall include the following:

(A) An analysis of the number of jobs created by any employee retraining, education, and reemployment assistance and any community impact assistance provided in each workforce restructuring plan developed pursuant to section 3161 of the National Defense Authorization Act for Fiscal Year 1993.

(B) An analysis of other benefits provided pursuant to such plans, including any assistance provided to community reuse organizations.

(C) A description of the funds expended, and the funds obligated but not expended, pursuant to such plans as of the date of the report.

(D) A description of the criteria used since October 23, 1992, in providing assistance pursuant to such plans.

(E) A comparison of any similar benefits provided—

(i) pursuant to such a plan to employees whose employment at the defense nuclear facility covered by the plan is terminated; and

(ii) to employees whose employment at a facility where more than 50 percent of the revenues are derived from contracts with the Department of Defense has been terminated as a result of cancellation, termination, or completion of contracts with the Department of Defense and the employees whose employment is terminated constitute more than 15 percent of the employees at that facility.

(F) A comparison of—

(i) involuntary separation benefits provided to employees of Department of Energy contractors and subcontractors under such plans; and

(ii) involuntary separation benefits provided to employees of the Federal Government.

(G) A comparison of costs to the Federal Government (including costs of involuntary separation benefits) for—

(i) involuntary separations of employees of Department of Energy contractors and subcontractors; and

(ii) involuntary separations of employees of contractors and subcontractors of other Federal Government departments and agencies.

(H) A description of the length of service and hiring dates of employees of Department of Energy contractors and subcontractors provided benefits under such plans in the two-year period preceding the date of the enactment of this Act.

(3) REPORT ON STUDY.—The Comptroller General shall submit a report to Congress on the results of the study not later than March 31, 1999.

(4) DEFINITION.—In this section, the term ''defense nuclear facility'' has the meaning provided the term ''Department of Energy defense nuclear facility'' in section 3163 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 42 U.S.C. 7274j).

(d) EFFECT ON USEC PRIVATIZATION ACT.—(1) Section 3110(a)(5) of the USEC Privatization Act (Public Law 104–134; 110 Stat. 1321–341; 42 U.S.C. 2297h–8(a)(5)) is amended by adding at the end the following: ''With respect to such section 3161, the Secretary shall, on and after the effective date of the repeal of such section, provide assistance to any such employee in accordance with the terms of such section as in effect on the day before the effective date of its repeal.''.

(2) After the effective date of the repeal of section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274h), no funds appropriated to the Department of Energy for atomic energy defense activities may be used to provide assistance under that section (by reason of the amendment made by paragraph (1)) to the adversely affected employees described in section 3110(a)(5) of the USEC Privatization Act (Public Law 104–134; 110 Stat. 1321–341; 42 U.S.C. 2297h–8(a)(5)).

SEC. 3152. REQUIREMENT FOR PLAN TO MODIFY EMPLOYMENT SYSTEM USED BY DEPARTMENT OF ENERGY IN DEFENSE ENVIRONMENTAL MANAGEMENT PROGRAMS.

(a) PLAN REQUIREMENT.—(1) The Secretary of Energy shall develop a plan to modify the Federal employment system used within the defense environmental management programs of the Department of Energy to allow for workforce restructuring in those programs.

(2) The plan shall address strategies to recruit and hire—

(A) individuals with a high degree of scientific and technical competence in the areas of nuclear and toxic waste remediation and environmental restoration; and

(B) individuals with the necessary skills to manage large construction and environmental remediation projects.

(3) The plan shall include an identification of the provisions of Federal law that would need to be changed to allow the Secretary of Energy to restructure the Department of Energy defense environmental management workforce to hire individuals described in paragraph (2), while staying within any numerical limitations required by law (including section 3161 of Public Law 103–337 (42 U.S.C. 7231 note)) on employment of such individuals.

(b) REPORT.—The Secretary shall submit to Congress a report on the plan developed under subsection (a).

(c) LIMITATION ON USE OF CERTAIN FUNDS.—The Secretary of Energy may not use more than 75 percent of the funds available to the Secretary pursuant to the authorization of appropriations in section 3102(a)(6) (relating to program direction) until the Secretary submits the report required by subsection (b).

SEC. 3153. REPORT ON STOCKPILE STEWARDSHIP CRITERIA.

(a) REQUIREMENT FOR CRITERIA.—The Secretary of Energy shall develop clear and specific criteria for judging whether the science-based tools being used by the Department of Energy for determining the safety and reliability of the nuclear weapons stockpile are performing in a manner that will provide an adequate degree of certainty that the stockpile is safe and reliable.

(b) REPORT.—Not later than March 1, 1999, the Secretary of Energy shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the efforts by the Department of Energy to develop the criteria required by subsection (a). The report shall include—

(1) a description of the information needed to determine that the nuclear weapons stockpile is safe and reliable and the relationship of the science-based tools to the collection of that information; and

(2) a description of the criteria required by subsection (a) to the extent they have been defined as of the date of the submission of the report.

TITLE XXXII–DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 1999, $17,500,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

SEC. 3301. DEFINITIONS.

In this title:

(1) The term ''National Defense Stockpile'' means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

(2) The term ''National Defense Stockpile Transaction Fund'' means the fund in the Treasury of the United States established under section 9(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(a)).

SEC. 3302. AUTHORIZED USES OF STOCKPILE FUNDS.

(a) OBLIGATION OF STOCKPILE FUNDS.—During fiscal year 1999, the National Defense Stockpile Manager may obligate up to $82,647,000 of the funds in the National Defense Stockpile Transaction Fund for the authorized uses of such funds under section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)).

(b) ADDITIONAL OBLIGATIONS.—The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date Congress receives the notification.

(c) LIMITATIONS.—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

TITLE XXXIV—NAVAL PETROLEUM RESERVES

SEC. 3401. DEFINITIONS.

In this title:

(1) The term ''naval petroleum reserves'' has the meaning given the term in section 7420(2) of title 10, United States Code.

(2) The term ''Naval Petroleum Reserve Numbered 2'' means the naval petroleum reserve, commonly referred to as the Buena Vista unit, that is located in Kern County, California, and was established by Executive order of the President, dated December 13, 1912.

(3) The term ''Naval Petroleum Reserve Numbered 3'' means the naval petroleum reserve, commonly referred to as the Teapot Dome unit, that is located in the State of Wyoming and was established by Executive order of the President, dated April 30, 1915.

(4) The term ''Oil Shale Reserve Numbered 2'' means the naval petroleum reserve that is located in the State of Utah and was established by Executive order of the President, dated December 6, 1916.

(5) The term ''antitrust laws'' means has the meaning given the term in section 1(a) of the Clayton Act (15 U.S.C. 12(a)), except that the term also includes—

(A) the Act of June 19, 1936 (15 U.S.C. 13 et seq.; commonly known as the Robinson-Patman Act); and

(B) section 5 of the Federal Trade Commission Act (15 U.S.C. 45), to the extent that such section applies to unfair methods of competition.

(6) The term ''general land laws'' includes the Mineral Leasing Act (30 U.S.C. 181 et seq.) and the Materials Act of 1947 (30 U.S.C. 601 et seq.), but excludes the Mining Law of 1872 (30 U.S.C. 22 et seq.).

(7) The term ''petroleum'' has the meaning given the term in section 7420(3) of title 10, United States Code.

SEC. 3402. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated to the Secretary of Energy $22,500,000 for fiscal year 1999 for the purpose of carrying out—

(1) activities under chapter 641 of title 10, United States Code, relating to the naval petroleum reserves;

(2) closeout activities at Naval Petroleum Reserve Numbered 1 upon the sale of that reserve under subtitle B of title XXXIV of the National Defense Authorization Act for fiscal year 1996 (Public Law 104–106; 10 U.S.C. 7420 note); and

(3) activities under this title relating to the disposition of Naval Petroleum Reserve Numbered 2, Naval Petroleum Reserve Numbered 3, and Oil Shale Reserve Numbered 2.

(b) AVAILABILITY OF APPROPRIATIONS.—Funds appropriated pursuant to the authorization of appropriations in subsection (a) shall remain available until expended.

SEC. 3403. PRICE REQUIREMENT ON SALE OF CERTAIN PETROLEUM DURING FISCAL YEAR 1999.

Notwithstanding section 7430(b)(2) of title 10, United States Code, during fiscal year 1999, any sale of any part of the United States share of petroleum produced from Naval Petroleum Reserve Numbered 2 or Naval Petroleum Reserve Numbered 3, shall be made at a price not less than 90 percent of the current sales price, as estimated by the Secretary of Energy, of comparable petroleum in the same area.

SEC. 3404. DISPOSAL OF NAVAL PETROLEUM RESERVE NUMBERED 2.

(a) DISPOSAL OF FORD CITY LOTS.—(1) Subject to section 3407, the Secretary of Energy shall dispose of that portion of Naval Petroleum Reserve Numbered 2 located within the town lots in Ford City, California, as generally depicted on the map of Naval Petroleum Reserve Numbered 2 that accompanies the report of the Secretary entitled ''Report and Recommendations on the Management and Disposition of the Naval Petroleum and Oil Shale Reserves (Excluding Elk Hills)'', dated March 1997.

(2) The Secretary of Energy may carry out the disposal of that portion of Naval Petroleum Reserve Numbered 2 described in paragraph (1) by competitive sale or lease consistent with commercial practices, by transfer to another Federal agency or a public or private entity, or by any other means. Any competitive sale or lease under this subsection shall provide for the disposal of all right, title, and interest of the United States in the property to be conveyed. The Secretary of Energy may use the authority provided by the Act of June 14, 1926 (43 U.S.C. 869 et seq.; commonly known as the Recreation and Public Purposes Act), in the same manner and to the same extent as the Secretary of the Interior, to dispose of that portion of Naval Petroleum Reserve Numbered 2 described in paragraph (1).

(3) The Secretary of Energy may extend to a purchaser or other transferee of property under this subsection such indemnities and warranties as the Secretary considers reasonable and necessary to protect the purchaser or transferee from claims arising from the ownership of the property by the United States or the administration of the property by the Secretary of Energy.

(b) EVENTUAL TRANSFER OF ADMINISTRATIVE JURISDICTION.—(1) The Secretary of Energy shall continue to administer Naval Petroleum Reserve Numbered 2 (other than the portion of the reserve subject to disposal under subsection (a)) in accordance with chapter 641 of title 10, United States Code, until such time as the Secretary makes a determination to abandon oil and gas operations in Naval Petroleum Reserve Numbered 2 in accordance with commercial operating practices.

(2) After oil and gas operations are abandoned in Naval Petroleum Reserve Numbered 2 under paragraph (1), the Secretary of Energy shall transfer to the Secretary of the Interior administrative jurisdiction and control over all public domain lands included within Naval Petroleum Reserve Numbered 2 (other than the portion of the reserve subject to disposal under subsection (a)) for management in accordance with the general land laws.

(c) RELATIONSHIP TO ANTITRUST LAWS.—This section does not modify, impair, or supersede the operation of the antitrust laws.

SEC. 3405. DISPOSAL OF NAVAL PETROLEUM RESERVE NUMBERED 3.

(a) CONTINUED ADMINISTRATION PENDING TERMINATION OF OPERATIONS.—The Secretary of Energy shall continue to administer Naval Petroleum Reserve Numbered 3 in accordance with chapter 641 of title 10, United States Code, until such time as the Secretary makes a determination to abandon oil and gas operations in Naval Petroleum Reserve Numbered 3 in accordance with commercial operating practices.

(b) DISPOSAL AUTHORITY.—(1) After oil and gas operations are abandoned in Naval Petroleum Reserve Numbered 3, the Secretary of Energy may dispose of, subject to section 3407, the reserve by sale, lease, transfer, or other means. Any sale or lease shall provide for the disposal of all right, title, and interest of the United States in the property to be conveyed and shall be conducted in accordance with competitive procedures consistent with commercial practices, as established by the Secretary of Energy.

(2) The Secretary of Energy may extend to a purchaser or other transferee of property under this subsection such indemnities and warranties as the Secretary considers reasonable and necessary to protect the purchaser or transferee from claims arising from the ownership of the property by the United States or the administration of the property by the Secretary of Energy.

(c) RELATIONSHIP TO ANTITRUST LAWS.—This section does not modify, impair, or supersede the operation of the antitrust laws.

SEC. 3406. DISPOSAL OF OIL SHALE RESERVE NUMBERED 2.

(a) TRANSFER OF ADMINISTRATIVE JURISDICTION.—Subject to section 3407, effective September 30, 1999, the Secretary of Energy shall transfer to the Secretary of the Interior administrative jurisdiction and control over all public domain lands included within Oil Shale Reserve Numbered 2 for management in accordance with the general land laws.

(b) RELATIONSHIP TO INDIAN RESERVATION.—The transfer of administrative jurisdiction under this section does not affect any interest, right, or obligation respecting the Uintah and Ouray Indian Reservation located in Oil Shale Reserve Numbered 2.

SEC. 3407. ADMINISTRATION.

(a) CONTRACT AUTHORITY.—Using the authority provided by section 303(c)(7) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(7)), the Secretary of Energy and the Secretary of the Interior may separately enter into contracts for the acquisition of such services as the Secretary considers necessary to carry out the requirements of this title, except that the notification required under subparagraph (B) of such section for each such contract shall be submitted to Congress not less than seven days before the award of the contract.

(b) PROTECTION OF EXISTING RIGHTS.—At the discretion of the Secretary of Energy, the disposal of property under this title shall be subject to any contract related to the United States ownership interest in the property in effect at the time of disposal, including any lease agreement pertaining to the United States interest in Naval Petroleum Reserve Numbered 2.

(c) DEPOSIT OF RECEIPTS.—Notwithstanding any other law, all monies received by the United States from the disposal of property under this title or under section 7439 of title 10, United States Code, including monies received from a lease entered into under this title or such section, shall be deposited in the general fund of the Treasury.

(d) TREATMENT OF ROYALTIES.—Any petroleum accruing to the United States as royalty from any lease of lands transferred under this title or under section 7439 of title 10, United States Code, shall be delivered to the United States, or shall be paid for in money, as the Secretary of the Interior may elect.

(e) ELEMENTS OF LEASE.—A lease under this title may provide for the exploration for, and development and production of, petroleum, other than petroleum in the form of oil shale.

(f) RELATIONSHIP TO CURRENT LAW.—Except as otherwise provided in this title, chapter 641 of title 10, United States Code, does not apply to the disposal of property under this title and ceases to apply to property in Naval Petroleum Reserve Numbered 2, Naval Petroleum Reserve Numbered 3, and Oil Shale Reserve Numbered 2, upon the final disposal of the property.

TITLE XXXV—PANAMA CANAL COMMISSION

SEC. 3501. SHORT TITLE; REFERENCES TO PANAMA CANAL ACT OF 1979.

(a) SHORT TITLE.—This title may be cited as the ''Panama Canal Commission Authorization Act for Fiscal Year 1999''.

(b) REFERENCES TO PANAMA CANAL ACT OF 1979.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.).

SEC. 3502. AUTHORIZATION OF EXPENDITURES.

(a) IN GENERAL.—Subject to subsection (b), the Panama Canal Commission is authorized to use amounts in the Panama Canal Revolving Fund to make such expenditures within the limits of funds and borrowing authority available to it in accordance with law, and to make such contracts and commitments, as may be necessary under the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.) for the operation, maintenance, improvement, and administration of the Panama Canal for fiscal year 1999.

(b) LIMITATIONS.—For fiscal year 1999, the Panama Canal Commission may expend from funds in the Panama Canal Revolving Fund not more than $90,000 for official reception and representation expenses, of which—

(1) not more than $28,000 may be used for official reception and representation expenses of the Supervisory Board of the Commission;

(2) not more than $14,000 may be used for official reception and representation expenses of the Secretary of the Commission; and

(3) not more than $48,000 may be used for official reception and representation expenses of the Administrator of the Commission.

SEC. 3503. PURCHASE OF VEHICLES.

Notwithstanding any other provision of law, the funds available to the Commission shall be available for the purchase and transportation to the Republic of Panama of passenger motor vehicles built in the United States, the purchase price of which shall not exceed $23,000 per vehicle.

SEC. 3504. EXPENDITURES ONLY IN ACCORDANCE WITH TREATIES.

Expenditures authorized under this title may be made only in accordance with the Panama Canal Treaties of 1977 and any law of the United States implementing those treaties.

SEC. 3505. DONATIONS TO THE COMMISSION.

Section 1102b (22 U.S.C. 3612b) is amended by adding at the end the following new subsection:

''(f)(1) The Commission may seek and accept donations of funds, property, and services from individuals, foundations, corporations, and other private and public entities for the purpose of carrying out its promotional activities.

''(2) The Commission shall establish written guidelines setting forth the criteria to be used in determining whether the acceptance of funds, property, or services authorized by paragraph (1) would reflect unfavorably upon the ability of the Commission (or any employee of the Commission) to carry out its responsibilities or official duties in a fair and objective manner or would compromise the integrity or the appearance of the integrity of its programs or of any official in those programs.''.

SEC. 3506. SUNSET OF UNITED STATES OVERSEAS BENEFITS JUST BEFORE TRANSFER.

(a) REPEALS.—Effective 11:59 p.m. (Eastern Standard Time), December 30, 1999, the following provisions are repealed and any right or condition of employment provided for in, or arising from, those provisions is terminated: sections

1206 (22 U.S.C. 3646), 1207 (22 U.S.C. 3647), 1217(a) (22 U.S.C. 3657(a)), and 1224(11) (22 U.S.C. 3664(11)), subparagraphs (A), (B), (F), (G), and (H) of section 1231(a)(2) (22 U.S.C. 3671(a)(2)) and section 1321(e) (22 U.S.C. 3731(e)).

(b) SAVINGS PROVISION FOR BASIC PAY.—Notwithstanding subsection (a), benefits based on basic pay, as listed in paragraphs (1), (2), (3), (5), and (6) of section 1218 of the Panama Canal Act of 1979, shall be paid as if sections 1217(a) and 1231(a)(2) (A) and (B) of that Act had been repealed effective 12:00 p.m., December 31, 1999. The exception under the preceding sentence shall not apply to any pay for hours of work performed on December 31, 1999.

(c) NONAPPLICABILITY TO AGENCIES IN PANAMA OTHER THAN PANAMA CANAL COMMISSION.—Section 1212(b)(3) (22 U.S.C. 3652(b)(3)) is amended by striking out ''the Panama Canal Transition Facilitation Act of 1997'' and inserting in lieu thereof ''the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105–85; 110 Stat. 2062), or the Panama Canal Commission Authorization Act for Fiscal Year 1999''.

SEC. 3507. CENTRAL EXAMINING OFFICE.

Section 1223 (22 U.S.C. 3663) is repealed.

SEC. 3508. LIABILITY FOR VESSEL ACCIDENTS.

(a) COMMISSION LIABILITY SUBJECT TO CLAIMANT INSURANCE.—(1) Section 1411(a) (22 U.S.C. 3771(a)) is amended by inserting ''to section 1419(b) of this Act and'' after ''Subject'' in the first sentence.

(2) Section 1412 (22 U.S.C. 3772) is amended by striking out ''The Commission'' in the first sentence and inserting in lieu thereof ''Subject to section 1419(b) of this Act, the Commission''.

(3) Section 1416 (22 U.S.C. 3776) is amended by striking out ''A claimant'' in the first sentence and inserting in lieu thereof ''Subject to section 1419(b) of this Act, a claimant''.

(b) LIMITATION ON LIABILITY.—Section 1419 (22 U.S.C. 3779) is amended by designating the text as subsection (a) and by adding at the end the following:

''(b) The Commission may not consider or pay any claim under section 1411 or 1412 of this Act, nor may an action for damages lie thereon, unless the claimant is covered by one or more valid policies of insurance totalling at least $1,000,000 against the injuries specified in those sections. The Commission's liability on any such claim shall be limited to damages in excess of all amounts recovered or recoverable by the claimant from its insurers. The Commission may not consider or pay any claim by an insurer or subrogee of a claimant under section 1411 or 1412 of this Act.''.

SEC. 3509. PANAMA CANAL BOARD OF CONTRACT APPEALS.

(a) ESTABLISHMENT AND PAY OF BOARD.—Section 3102(a) (22 U.S.C. 3862(a)) is amended—

(1) in paragraph (1), by striking out ''shall'' in the first sentence and inserting in lieu thereof ''may''; and

(2) by adding at the end the following new paragraph:

''(3) Compensation for members of the Board of Contract Appeals shall be established by the Commission's supervisory board, except that such compensation may not be reduced during a member's term of office from the level established at the time of the appointment.''.

(b) DEADLINE FOR COMMENCEMENT OF BOARD.—Section 3102(e) (22 U.S.C. 3862(e)) is amended by striking out '', but not later than January 1, 1999''.

SEC. 3510. TECHNICAL AMENDMENTS.

(a) PANAMA CANAL ACT OF 1979.—The Panama Canal Act of 1979 is amended as follows:

(1) Section 1202(c) (22 U.S.C. 3642(c)) is amended—

(A) by striking out ''the day before the date of the enactment of the Panama Canal Transition Facilitation Act of 1997'' and inserting in lieu thereof ''November 17, 1997,'';

(B) by striking out ''on or after that date''; and

(C) by striking out ''the day before the date of enactment'' and inserting in lieu thereof ''that date''.

(2) Section 1212(b)(3) (22 U.S.C. 3652(b)(3)) is amended by inserting ''the'' after ''by the head of''.

(3) Section 1313 (22 U.S.C. 3723) is amended by striking out ''subsection (d)'' in each of subsections (a), (b), and (d) and inserting in lieu thereof ''subsection (c)''.

(4) Sections 1411(a) and 1412 (22 U.S.C. 3771(a), 3772) are amended by striking out ''the date of the enactment of the Panama Canal Transition Facilitation Act of 1997'' and inserting in lieu thereof ''by November 18, 1998''.

(b) PUBLIC LAW 104–201.—Effective as of September 23, 1996, and as if included therein as enacted, section 3548(b)(3) of the Panama Canal Act Amendments of 1996 (subtitle B of title XXXV of Public Law 104–201; 110 Stat. 2869) is amended by striking out ''section'' in both items of quoted matter and inserting in lieu thereof ''sections''.

TITLE XXXVI—MARITIME ADMINISTRATION

SEC. 3601. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1999.

Funds are hereby authorized to be appropriated for fiscal year 1999, to be available without fiscal year limitation if so provided in appropriations Act, for the use of the Department of Transportation for the Maritime Administration as follows:

(1) For expenses necessary for operations and training activities, $70,553,000.

(2) For expenses under the loan guarantee program authorized by title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.), $20,000,000 of which—

(A) $16,000,000 is for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) of loan guarantees under the program; and

(B) $4,000,000 is for administrative expenses related to loan guarantee commitments under the program.

SEC. 3602. CONVEYANCE OF NDRF VESSEL M/V BAYAMON.

(a) AUTHORITY TO CONVEY.—The Secretary of Transportation may convey all right, title, and interest of the United States Government in and to the vessel M/V BAYAMON (United States official number 530007) to the Trade Fair Ship Company, a corporation established under the laws of the State of Deleware and having its principal offices located in New York, New York (in this section referred to as the ''recipient''), for use as floating trade exposition to showcase United States technology, industrial products, and services.

(b) TERMS OF CONVEYANCE.—

(1) DELIVERY OF VESSEL.—In carrying out subsection (a), the Secretary shall deliver the vessel—

(A) at the place where the vessel is located on the date of conveyance;

(B) in its condition on that date; and

(C) at no cost to the United States Government.

(2) REQUIRED CONDITIONS.—The Secretary may not convey a vessel under this section unless—

(A) the recipient pays consideration equal to the domestic fair market value of the vessel as determined by the Secretary;

(B) the recipient agrees that any repair, restoration, or reconstruction work for the vessel will be performed in the United States;

(C) the recipient agrees to hold the Government harmless for any claims arising from exposure to hazardous material, including asbestos and polychlorinated biphenyls, after the conveyance of the vessel, except for claims arising before the date of the conveyance or from use of the vessel by the Government after that date; and

(D) the recipient provides sufficient evidence to the Secretary that it has adequate financial resources in the form of cash, liquid assets, or a written loan commitment to complete the reconstruction of the vessel.

(3) ADDITIONAL TERMS.—The Secretary may require such additional terms in connection with the conveyance authorized by this section as the Secretary considers appropriate.

(c) PROCEEDS.—Any amounts received by the United States as proceeds from the sale of the M/V BAYAMON shall be deposited in the Vessel Operations Revolving Fund established by the Act of June 2, 1951 (chapter 121; 46 App. U.S.C. 1241a).

SEC. 3603. CONVEYANCE OF NDRF VESSELS BENJAMIN ISHERWOOD AND HENRY ECKFORD.

(a) AUTHORITY TO CONVEY.—The Secretary of Transportation may convey all right, title, and interest of the United States Government in and to the vessels BENJAMIN ISHERWOOD (TAO–191) and HENRY ECKFORD (TAO–192) to a purchaser for the purpose of reconstruction of those vessels for sale or charter.

(b) TERMS OF CONVEYANCE.—

(1) DELIVERY OF VESSEL.—In carrying out subsection (a), the Secretary shall deliver the vessel—

(A) at the place where the vessel is located on the date of the conveyance;

(B) in its condition on that date; and

(C) at no cost to the United States Government.

(2) REQUIRED CONDITIONS.—The Secretary may not convey a vessel under this section unless—

(A) the recipient pays consideration equal to the domestic fair market value of the vessel, as determined by the Secretary;

(B) the recipient agrees to sell or charter the vessel to a member nation of the North Atlantic Treaty Organization for use as an oiler;

(C) the recipient provides sufficient evidence to the Secretary that it has adequate financial resources in the form of cash, liquid assets, or a written loan commitment to complete the reconstruction of the vessel;

(D) the recipient agrees that any repair, restoration, or reconstruction work for the vessel will be performed in the United States; and

(E) the recipient agrees to hold the Government harmless for any claims arising from defects in the vessel or from exposure to hazardous material, including asbestos and polychlorinated biphenyls, after the conveyance of the vessel, except for claims arising before the date of the conveyance or from use of the vessel by the Government after that date.

(3) ADDITIONAL TERMS.—The Secretary may require such additional terms in connection with a conveyance authorized by this section as the Secretary considers appropriate.

(c) PROCEEDS.—Any amounts received by the United States as proceeds from the sale of a vessel under this section shall be deposited in the Vessel Operations Revolving Fund established by the Act of June 2, 1951 (chapter 121; 46 App. U.S.C. 1241a).

(d) DURATION OF AUTHORITY.—The authority of the Secretary under this section may only be exercised during the one-year period beginning on the date of the enactment of this Act.

SEC. 3604. CLEARINGHOUSE FOR MARITIME INFORMATION.

Of the amount authorized to be appropriated pursuant to section 3601(1) for operations of the Maritime Administration, $75,000 shall be available for the establishment at a State Maritime Academy of a clearinghouse for maritime information that makes that information publicly available, including by use of the Internet.

SEC. 3605. CONVEYANCE OF NDRF VESSEL EX-USS LORAIN COUNTY.

(a) AUTHORITY TO CONVEY.—The Secretary of Transportation may convey all right, title, and interest of the Federal Government in and to the

vessel ex-USS LORAIN COUNTY (LST–1177) to the Ohio War Memorial, Inc., located in Sandusky, Ohio (in this section referred to as the ''recipient''), for use as a memorial to Ohio veterans.

(b) TERMS OF CONVEYANCE.—

(1) DELIVERY OF VESSEL.—In carrying out subsection (a), the Secretary shall deliver the vessel—

(A) at the place where the vessel is located on the date of conveyance;

(B) in its condition on that date; and

(C) at no cost to the Federal Government.

(2) REQUIRED CONDITIONS.—The Secretary may not convey a vessel under this section unless—

(A) the recipient agrees to hold the Government harmless for any claims arising from exposure to hazardous material, including asbestos and polychlorinated biphenyls, after conveyance of the vessel, except for claims arising before the date of the conveyance or from use of the vessel by the Government after that date; and

(B) the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, or a written loan commitment, financial resources of at least $100,000.

(3) ADDITIONAL TERMS.—The Secretary may require such additional terms in connection with the conveyance authorized by this section as the Secretary considers appropriate.

(c) OTHER UNNEEDED EQUIPMENT.—The Secretary may convey to the recipient of the vessel conveyed under this section any unneeded equipment from other vessels in the National Defense Reserve Fleet, for use to restore the vessel conveyed under this section to museum quality.

The CHAIRMAN. No amendment to the committee amendment in the nature of a substitute is in order except amendments printed in House Report 105–544, or considered by order of the House to have been so printed, and amendments en bloc described in Section 3 of the resolution.

Except as specified in Section 5 of the resolution, each amendment printed in the report shall be considered only in the order specified, may be offered only by a Member designated in the report, shall be considered read, and shall not be subject to a demand for a division of the question.

Unless otherwise specified in the report or in the resolution, each amendment printed in the report shall be debatable for 10 minutes, equally divided and controlled by the proponent and an opponent of the amendment, and shall not be subject to amendment, except that the chairman and ranking minority member of the Committee on National Security each may offer one pro forma amendment for the purpose of further debate on any pending amendment.

Consideration of amendments printed in part A of the report shall begin with an additional period of general debate, which shall be confined to the subject of the policy of the United States with respect to the People's Republic of China and shall not exceed 2 hours, equally divided and controlled by the chairman and ranking minority member.

□ 1215

Consideration of amendments printed in part C of the report shall begin with an additional period of general debate, which shall be confined to the subject of the assignment of members of the Armed Forces to assist in border control and shall not exceed 30 minutes, equally divided and controlled by the chairman and ranking minority member.

It shall be in order at any time for the chairman of the Committee on National Security or his designee to offer amendments en bloc consisting of amendments printed in part D of the report not earlier disposed of or germane modifications of any such amendment. The amendments en bloc shall be considered read, except that modifications shall be reported, shall be debatable for 20 minutes, equally divided and controlled by the chairman and ranking minority member of the committee, or their designees, shall not be subject to amendment and shall not be subject to a demand for a division of the question.

The original proponent of an amendment included in the amendments en bloc may insert a statement in the CONGRESSIONAL RECORD immediately before disposition of the amendments en bloc.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

The Chairman of the Committee of the Whole may recognize for consideration of amendments printed in the report out of the order in which they are printed, but not sooner than 1 hour after the chairman of the Committee on National Security or a designee announces from the floor a request to that effect.

It is now in order to debate the subject of the policy of the United States with respect to the People's Republic of China.

The gentleman from Arizona (Mr. STUMP) and the gentleman from Missouri (Mr. SKELTON) each will control 1 hour.

The Chair recognizes the gentleman from Arizona (Mr. STUMP).

Mr. STUMP. Mr. Chairman, I am pleased to yield 2 minutes to the gentlewoman from North Carolina (Mrs. MYRICK).

Mrs. MYRICK. Mr. Chairman, perhaps it is just a coincidence. Perhaps it is just a coincidence that the President turned a blind eye as one of his wealthiest campaign contributors harmed our national security by helping the Chinese improve their ballistic warheads.

Maybe the President did not mean to accept campaign donations from the Chinese Red Army at the same time he changed U.S. policy to benefit China's missile program.

There may be an innocent explanation for the President's decision to ignore his Secretary of State, the Director of the CIA and the Pentagon and to allow his campaign donors to help China's military.

Finally, maybe it was just an accident when the President gutted the Justice Department's investigation into the matter. If there is an innocent explanation, though, the American people have not heard it yet.

The facts, as we know them, are deeply disturbing. What frightens, angers, and troubles me is that we do not know all the facts yet.

These are serious matters. China has 13 missiles aimed at U.S. cities, and it would be shocking if the President helped to make the missiles more accurate. Clearly, the American people deserve an explanation. Unless and until we get such an explanation, the President should postpone his scheduled trip to China.

After receiving campaign donations from the People's Liberation Army, after associating with Chinese agents and after changing U.S. policy to benefit the Chinese military, the President has no business jetting off to Tiananmen Square to attend ceremonies with China's Communist leaders. To do so would be an insult to the American people and those Chinese who lost their lives in the fight for democracy.

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume.

Last week, the Committee on Rules received some 12 amendments dealing in one form or another with China. Those amendments were combined and fashioned into the four that we will address here today.

As a footnote question, however, I would be interested in knowing the source of the information that the gentlewoman just said regarding missiles being targeted toward us. I would appreciate that in a timely fashion.

The two broad targets of these amendments are, first, the administration policy of engagement with respect to China, and, second, the alleged improper flow of U.S. technology to China. These four amendments are either redundant, Mr. Chairman, or simply counterproductive.

Let me first discuss the administration policy of engagement with China. A quarter century ago, President Richard Nixon traveled to China initiating a new relationship with the world's largest country. It is a relationship that has evolved over the past quarter century through six administrations, Republican and Democratic.

Over that time, we have seen China make great strides economically as it adopted market reforms. The earlier policy under President Nixon shifted during the Bush administration as the Cold War came to an end. The strategic component that brought the two countries closer together in 1972, a mutual concern about the Soviet threat, ended upon the breakup of the Soviet Union.

President Bush, the Nixon administration's first Ambassador to China,

understood the important role that China would play in world affairs as the 20th Century drew to a close and the 21st approached. He realized that a country with a quarter of the world's population a country, with nuclear weapons, a country having one of the five permanent seats at the United Nations, a country successfully adopting Western market reforms was a country that the United States had to engage.

The aim was to help China become a cooperative power in both Asia and the world, to have it become a responsible world power interested in promoting stability, not promoting revolution.

U.S. and China relations over the more than 25 years have had more than their share of controversies, over human rights, over trade imbalances, and over proliferation. The two countries will continue to have differences in the future. However, the overall effect should be to establish a relationship where those differences can be reduced and managed in such a fashion that China sees it to be in its own interest to promote a stable international order.

The Clinton administration has continued the Bush administration policy. Two years ago, relations between the two countries were at a low point, as symbolized by the Straits of Taiwan incident. Since then, the relationship has improved, with a new generation of leaders adopting policies more in keeping with those of a responsible world power.

Last year's October summit between President Clinton and President Jiang Zemin marked a turning point. Recent actions seem to bear out this positive development.

Last fall, for example, during the Southeast Asia's economic crisis, China took measures to stabilize the situation. It provided Thailand a billion dollar loan and resisted the temptation to devalue its currency. In financial circles, China earned high marks for acting in a responsible fashion.

Let us look at a more recent crisis, the Indian detonation of five nuclear weapons last week. Under Mao, China was unconcerned about the spread of nuclear weapons.

One of the difficult issues that the Clinton administration sought to address over the past five years has concerned the Chinese nuclear technology relationship with Pakistan.

After the Indian explosions we see a China acting with great caution, assuming a role of responsibility on this difficult issue. It described the Indian action as showing brazen contempt for international efforts to halt the spread of nuclear weapons.

Recent newspaper accounts have the Chinese government trying to reassure the Pakistani government so that it does not feel compelled to meet the Indian actions with nuclear tests of its very own.

I say all this, Mr. Chairman, because I believe that the actions that we take here today rather than protect U.S. security interests may actually tend to harm them. The effort to coax China along, to help those responsible figures in this government to proceed in a positive direction, will probably suffer if we succeed in bashing China today in an attempt to criticize administration policy.

The tenor of the amendments is to make judgments about important policy issues before we have all the facts. We need to deal with these important matters with great care and great deliberation. I will listen to each of the amendments with great care along that line. I am afraid that we are not going to be doing a great deal positively through this debate. I hope that I am wrong.

Mr. STUMP. Mr. Chairman, I am happy to yield 10 minutes to the gentleman from San Diego, California (Mr. HUNTER), chairman of the Subcommittee on Military Procurement of the Committee on National Security.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding the time. I want to say how much I appreciate the gentleman from Missouri (Mr. SKELTON), the ranking member, for his comments in this area and for his stalwart support of what has been the policy of the Committee on National Security in that, even in times of marked partisanship in the House in recent years, one bipartisan effort has been the effort by the Committee on National Security often resulting in unanimous votes in the committee to halt the movement of American technology, militarily critical technology; that is, technology that could end up killing American men and women on battlefields or killing Americans in our cities, to keep that technology from moving to those who might use it against us. So, Republicans and Democrats, we have been together on this issue.

We have this very troublesome issue that the committee has battled with and now that the American people have to battle with; and it is the issues that are surrounding the transfer of satellite launching technology to Communist China.

It has now become clear, we all know this now, that, in fact, a number of Chinese missiles are aimed at American cities. Those Chinese missiles have nuclear tips. It is in our interest not to give those Chinese missiles more reliability. Because of our diplomatic efforts notwithstanding, we cannot predict the future, and we cannot say absolutely that those missiles will never be launched against the cities that they are presently aimed at. So we do not want those missiles to be reliable. We do not want them to be accurate. We would hope that, in a time of launch, they do not even have the capability to leave the ground. That would be the best thing.

Juxtaposed against that national security concern is a commercial concern of some American companies, and that is that they have satellites to launch and they want to launch them cheap.

The cheapest launchers in the world are the Communist Chinese; that is, they will send up an American satellite built by Hughes or another American company on a pretty inexpensive basis atop a Chinese missile. The so-called ''Long March'' missile is the missile of choice. That Chinese missile that sends up satellites also is the same missile that has nuclear warheads on top of it that is aimed at American cities.

So we have a problem. We want to make sure that American companies, in putting their satellite packages atop these Chinese Communist ''Long March'' missiles, do not inadvertently show them how to make the missiles more reliable, more accurate, and have a number of factors that would allow them to destroy American cities with nuclear warheads. We have this major problem.

I asked for these charts to be placed over here because I think the charts very effectively explain some of the things that we have inadvertently taught the Chinese rocket ministry; that is, the people in charge of destroying American cities in a time of war how to make their missiles more reliable.

Let me just describe a few of those. We talk about the launch of April 1990, taught the Chinese why and how to build clean rooms for satellite launch investigation and introduced them to the need to protect fragile complex payloads against significant thermal dynamic change.

□ 1230

In 1992 we confirmed the Chinese analysis that the launch problem was in engine control of the launcher's first stage rather than altitude control. In 1992 we gave them information relating to the design of payload fairings. In May of 1995 we validated China's solid rocket satellite kick motor. This motor was still in development and had only been tested once before with the attitude-altitude controlled defective launch of a Pakistani satellite. It was a new system; we validated that system. In 1996, 1997 and 1998 we validated the Chinese upper stage separating technology, and we shared vibration and load coupling analysis with them.

Now, another very troubling thing happened in 1996. That is, one of the Long March rockets went down. They are considered not to be the most dependable rockets. It went down. It was destroyed before it got very far off the ground, and it carried a Loral-Hughes payload, an American satellite payload, worth a couple hundred million dollars. So Loral and Hughes, to make their stockholders happier, had to figure out how to make these missiles that carry them up into space more reliable. So they then engaged with the Chinese scientists and engineers and showed them how to make these missiles more reliable. That is the information that we have right now.

Now, the problem is, it is very difficult to get more information from

the administration. This committee, the Committee on National Security, under the leadership of the gentleman from South Carolina (Mr. SPENCE), and the Committee on International Relations under the leadership of the gentleman from New York (Mr. GILMAN), and I might say the ranking Democrats on both of those committees, has sought information as to exactly what happened with respect to this information sharing and this accuratizing of the Chinese missiles.

We do know this: The Department of Defense has issued a statement after analyzing that debriefing and that information sharing, and they said this, which should be of interest to every American mother and father. They said American national security has been damaged by this transfer of technology.

We are trying to find out exactly what was transferred, what happened, what reliability that is going to give to these nuclear systems that the Chinese have, and we are not getting any answers.

Against that backdrop, we are offering four amendments today. The gentleman from South Carolina (Mr. SPENCE) and the gentleman from New York (Mr. GILMAN) are offering an amendment that expresses the sense of the Congress that business interests must not be placed over U.S. national security interests, I think every American would agree with that, and that the United States should not agree to a variety of initiatives at the upcoming presidential summit in China, including, and these are some of the things we think our administration may be offering China, support for Chinese membership in the missile technology control regime; a blanket waiver of Tiananmen Square sanctions; an increase in space launches from China; agreeing to unverifiable arms control initiatives; increasing the level of military-to-military contacts; and entering any new agreements involving space or missile-related technology.

That amendment is being offered by the gentleman from South Carolina (Mr. SPENCE) and the gentleman from New York (Mr. GILMAN). I think every Member should vote for that.

We have the gentleman from Nebraska (Mr. BEREUTER) offering an amendment. This amendment would prohibit U.S. participation in any postlaunch failure investigation involving the launch of a U.S. satellite from China.

The gentleman from Nebraska (Mr. BEREUTER) very wisely is addressing the very occurrence that we just talked about. We had a big American payload of a $200 million satellite on top of a Chinese missile. The missile went down, so the $200 million satellite was destroyed, did not get launched. So Hughes stockholders and Loral stockholders said, ''We need to get more money. We have just lost $200 million. We need to help the Chinese accuratize their missiles and make them more accurate,'' not thinking about the fact those were the same missiles that are aimed at American cities with nuclear warheads. So we debriefed the Chinese engineers and scientists on the problems their missile had and on how they could correct it. That is currently the subject of an ongoing investigation.

The gentleman from Nebraska (Mr. BEREUTER) is saying, wait a minute. Let us not agree to any more debriefings. We do not share technology. When the guillotine is over our head and sticking, we do not say we think we see your problem and we want to solve it for you.

The gentleman from Colorado (Mr. HEFLEY) has an amendment. The amendment would prohibit the export or reexport of any missile equipment or technology to the People's Republic of China.

This says listen, let us put the brakes on. We have made a major mistake. Our own Department of Defense under the Clinton Administration has said national security has been damaged. Let us stop everything and try to figure out exactly what has happened and what we can do to rectify it. An excellent amendment by the gentleman from Colorado (Mr. HEFLEY).

Finally, I have an amendment that prohibits the export or reexport of U.S. satellites, including commercial satellites and satellite components to the People's Republic of China. This says the lives of our children, the safety of our cities, are more important than the shareholders seeing their stock go up a few points because they have sent the capability to deliver weapons of mass destruction into our own American cities.

Now, the administration needs to be forthcoming. They need to send us information on exactly what happened when we had this Loral and Hughes debriefing of the Chinese engineers and scientists in 1996. They need to send us information on exactly what the situation is with respect to the new capability of the Chinese missiles as a result of that.

I think until they do that, they do not deserve to have us allowing them to move forward with American companies continuing to send American satellites and interacting with the very people in the launch program in communist China who work both with domestic satellites, sending those satellites into space, and who work with preparing nuclear-tipped missiles for launch at American cities. This says, let us hold everything up until we shake this thing out.

So we are offering those four amendments. I would hope that Democrats and Republicans all vote for those amendments. This should be a time of reorganization and reexamination.

Mr. SKELTON. Mr. Chairman, I yield 5 minutes to the gentleman from Florida (Mr. WEXLER).

Mr. WEXLER. Mr. Chairman, almost a year and a half ago I received and began for me what was the proudest day of my professional life, being sworn in as a Member of the United States House of Representatives. I was elected as a Democrat from the State of Florida. But far more important than being elected as a Democrat, even far more important than being elected as a Floridian, I was an American, an American first and American only. And I came to this Congress with a devotion and a respect of the principles of the United States of America, for the basic freedoms that we enjoy in our Bill of Rights.

Then I listened to debate after debate in this House, where I disagreed vehemently with the Speaker with respect to his policies on Medicare, or Social Security, or education or the environment, and I disagreed vehemently at times with the direction that the Republican leadership of this Congress wishes to take this Nation.

But never would I dare, never would I dare question the patriotism and the devotion to this country of the Speaker or any Republican Member of the Congress. Never would I dare suggest that a Republican Member of this Congress has any less love for this country than I do, because I may differ with him on a policy, and I am confident that most Americans appreciate that those people who are elected to this Congress, regardless of their political beliefs, and those few individuals in our history that have been so privileged to lead our Nation as our President, have anything but a complete devotion to our country and our national security.

Yet, in the last months we have seen extraordinary allegations thrown at this President. Not simple allegations, but allegations that rise to the level of being involved in a murder plot, allegations rising to the level of being involved in a rape, allegations involving at one time or another almost every crime imaginable.

But the height was reached this week when Members of this House accused the President of the United States and the administration of acting in a treasonous fashion, of endangering the national security of the United States. And over what? What evidence is presented?

Taken in its most simplistic form, the allegation is the Chinese Government sent some money, a significant amount of money, $100,000, to the national Democratic Party, and then the President made a foreign policy decision where he said, ''There is the money. Now we are going to send some missile technology to China that will endanger the United States, that will create a nuclear proliferation program.''

Let us look at the specifics of the allegations. The money in question, the alleged money, did not wind up in the Democratic coffers until July and August of 1996. But what the accusers failed to say is the President issued the waiver in March of 1996. And what the accusers failed to say is that the money was then given back after it was

given, and then after the money was given back, another waiver was issued.

If you listen to the accusers, you would think President Clinton dreamed up this idea of waivers. No, the first waivers were given by President Bush, and President Bush decided it was in our national interest to allow American companies to send off their communications satellites because there were not enough American rockets going up to do so.

These were communication satellites. And if you listen to the allegations, you would think we just handed them to the Chinese, when in fact it was American companies that handed them to our Department of Defense. It was the American Department of Defense that transported the satellite, the American Department of Defense that put the satellite in its proper place, and it was guarded the whole way by the American Department of Defense.

Let us get down right to the bottom line of the argument, that money was given and a political decision made. If that is in fact the case, then all of us in Washington need to be brave and stand up and admit that all of us are guilty then, because whenever there is a contribution given, we will act on the contribution and do what the contributor said. And yes, yes, then it happens every day. And then, yes, it would seem it would be legitimate to argue that because the tobacco companies have given millions to the Republican party, that is why they are giving them tax breaks.

But I would not dare suggest that nexus, because I would not have the audacity to suggest that another Member of Congress is corrupt or is corrupted. And for Members of this Congress to suggest that the President of the United States has in some way endangered our national security, without a single shred of evidence, is there a single shred of evidence that suggests that this President took the money, knew what he was doing, and then said, send the missile, send the satellite to be on the missile because of the money? Not a single shred of evidence. It is treasonous, they say, without a single shred of evidence.

Mr. STUMP. Mr. Chairman, I yield 7 minutes to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. I thank the gentleman for yielding me time.

Mr. Chairman, I am kind of surprised at the gentleman's tirade here, because this gentleman never mentioned money, never mentioned treason, rarely mentioned the President. And when I went over the litany or the chronology of missile launches, I started with the Bush Administration in 1990.

This is a Committee on National Security. We are not worried about where the money came from or what it did or whether there was influence. What we are concerned about, very simply, is this statement, this statement made by President Clinton's Department of Defense. Hopefully that is not part of a right wing conspiracy, I would say to my friend who just spoke.

''In May 1997 the administration was jolted by a classified Pentagon report concluding that scientists from Hughes and Loral Space and Communications had turned over expertise that 'significantly improved the reliability of China's nuclear missiles.''' That is the New York Times, April 13, 1998. Our Department of Defense said American security has been damaged. That is what we are concerned about.

I think what we are going to have to do, both Republicans and Democrats, is when we have colleagues that come in and start ranting about the money, is very firmly but quietly push them aside to get their part of the debate over, and then go into what really concerns the American people, and that is this: that we have two conflicting pressures here. We have the pressure of our domestic satellite industry, like Hughes and Loral, that wants to sell things and make money; and they make money by taking advantage of the cheap launch that the Chinese offer by putting their satellite packages on top of Chinese missiles. That is the one factor, the one pressure.

The second pressure, of course, and a concern of ours, is national security. Because those very same missiles that carry the domestic satellite launches that we make money on, and Loral and Hughes, also carry nuclear-tipped missiles that are presently aimed at the United States, and conceivably in a conflict the reliability of those missiles to carry its nuclear payload into American cities should be something of great concern to us.

☐ 1345

That is what we are talking about here.

If I could have that second chart over here, let us talk about that for just a second. Incidentally, I have never heard of the New York Times being called part of a right-wing conspiracy. I hope they have not changed overnight. But I think this chart is pretty descriptive because it tells how, in working out commercial launches, in doing commercial launches in China, we are inadvertently increasing the capability of their nuclear strategic systems.

Payload dispersal technology. Payload dispersal technology allows single commercial rockets to deliver more than a single satellite into space per each launch. The same technology can be used to develop Multiple Independently-targetable Reentry Vehicles. We talked about those in the Cold War on this floor. Those are known as MIRVs. A MIRV is when we send one missile up, one missile, and when it gets to a certain altitude when it is over American cities or over another military target, it disperses 3 or 4 or 5 or as many, in the case of the Soviet Union, as many as 10 warheads to different targets, so it can usher in absolutely massive destruction with as many as 10 targets from one single rocket.

That MIRV capability is something that we were hoping that the Chinese would not obtain, because they do not have too many ICBMs, and we were hoping that they would not get the capability to have more than one nuclear warhead per missile, because it is very difficult to handle, if we ever do get defenses, to handle 10 warheads coming out of each missile. But they have gotten some of that technology from our commercial satellite application.

A second area where they desperately needed capability in their nuclear strategic arsenal and they got that as a result, or got some help as a result of their interaction with our satellite people, is kick motor technology. Kick motors are used to propel satellites precisely into their described orbits. This same technology can be applied to warhead delivery systems to enable them to evade ballistic missile defense systems.

Radiation-hardened electronics. These specialized chips are designed to resist electromagnetic interference in space as well as electromagnetic pulses in a nuclear combat environment.

Encryption devices. In both commercial and military applications, encryption devices allow only authorized users to control the system. Launcher altitude control, another vital area. Stage separation systems, a very critical area for launching successful, making successful missile launches, whether one is launching a satellite or launching a nuclear payload.

So let me just close by saying this. This committee, Democrats and Republicans, looked at this issue several years ago. We were asked to place this satellite launching technology, the licensing for this technology, to move it out of the control of the Department of Defense, the overview of the Department of Defense and the Department of State.

Typically, the Department of Defense has always been very tough on allowing this technology to go overseas. A lot of the users like Hughes and Loral wanted to move it into the Department of Commerce, where the object is to sell things and make money, where they thought they would be given a little more liberal license to transfer this technology to China. This committee fought that, and we had a vote in this committee, Democrats and Republicans. As I recall, and I could be wrong, it was unanimous, except for I think either 1 or 2 votes. It was almost unanimous, Democrats and Republicans, and in fact, one of the leaders on the Democrat side was Mr. Dellums, and the gentleman from South Carolina (Mr. SPENCE) was our leader on the Republican side.

So this is not a partisan issue, this is not about money, this is about security, and we need to pass these 4 amendments, put this whole transfer of satellite technology on hold until we

have sorted this thing out, figured out how much damage has been done to the American people and go from there.

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume.

Let me add some facts. One can have one's own opinions, but one cannot have one's own facts. Let me add a few of the facts. It is my understanding that in response to a letter from the gentleman from South Carolina (Mr. SPENCE), the chairman, that was sent to various officials here in this city seeking the secret DOD report was responded to by 3 folks, one from DOD, one from the ACDA, and the other from Justice, that there is an ongoing criminal investigation by the District Attorney of the District of Columbia, and the turnover of any evidence on this matter might jeopardize the case.

Mr. Chairman, being a former prosecuting attorney in the State of Missouri, I fully understand that response. I think that the facts should be clear on that issue.

Mr. Chairman, I reserve the balance of my time.

Mr. STUMP. Mr. Chairman, I yield 5 minutes to the gentleman from South Carolina (Mr. SPENCE), the chairman of the Committee on National Security.

(Mr. SPENCE asked and was given permission to revise and extend his remarks.)

Mr. SPENCE. Mr. Chairman, later today the House will have an opportunity to vote on a series of amendments that address recent revelations concerning the possible illegal transfer of sophisticated American missile technology to China. I urge my colleagues to consider this issue carefully and to support these amendments.

Over the past few days and weeks, the American people have witnessed a flood of news articles about the decisions 2 years ago and again earlier this year by the Clinton administration to allow the transfer of sophisticated American satellite technology to China, technology that can be used to improve Chinese ballistic missiles targeted on the United States.

While many important aspects of these reports and allegations remain unclear, the administration is doing little to help clarify the situation, as repeated requests by the Congress for information continue to be ignored. Nevertheless, that which we do know is deeply troubling. Although sanctions imposed on China in 1990 at the Tiananmen massacre were intended to prevent the transfer of missile technology to China, those sanctions have repeatedly been waived to allow the export of United States satellites containing militarily-sensitive technology.

In 1996, 2 American companies participated in a review of a failed launch of a U.S. satellite on a Chinese rocket. As a result of this investigation, sensitive export control information was exchanged, information that could be used by China to improve its long-range nuclear ballistic missile capability. The necessary export license for this information was neither sought nor obtained by the American companies in question. The transfer of this sensitive information reportedly led the Department of Defense to conclude that ''United States national security has been harmed,'' and resulted in the Justice Department initiating a criminal investigation.

Unfortunately, this investigation was undermined when the White House apparently, over the objections of the Justice Department earlier this year, approved the export to China of similar military-related technology. In light of a recently reported CIA study that concludes that China has targeted 13 long-range nuclear missiles on the United States, the danger of helping China perfect its missile capability with technology ''Made in the USA'' is apparently obvious to just about everyone except the White House.

Last month, the gentleman from New York (Mr. GILMAN), the chairman of the Committee on International Relations, and I jointly sent letters to the Departments of Defense, Commerce and State and the Arms Control and Disarmament Agency requesting documents relating to the 1996 transfer of technology and the White House's more recent 1998 decision to waive restrictions on the transfer of similar technology to China. The Committee on National Security is intensely interested in reviewing the Defense Technology Security Administration report on the 1996 transfer, which concluded that the transfer did harm United States' national security. Unfortunately, one month later, and not one document has been provided. The administration asserts that releasing these documents to Congress would compromise its ongoing criminal investigation. In reality, the administration appears to be hiding behind the veneer of a Justice Department investigation that the White House's own decision earlier this year is likely to have already compromised.

Mr. Chairman, the United States satellite industry has long supported a relaxation on restrictions on the export of satellites and satellite-related technology in the name of making money. Unfortunately, much of this technology is indistinguishable from the missile-related technology. The administration, nevertheless, liberalized the export of certain satellites in 1996 by removing them from the strictly controlled United States munitions list and placing them on the less restricted dual-use commodity control list administered by the Commerce Department. This decision was a fundamental reversal of the position articulated by Vice President Candidate Gore during the 1992 election campaign. He warned that allowing the launch of United States satellite by China would allow that country to ''gain foreign aerospace technology that would be otherwise unavailable to it.''

Mr. Chairman, the transfer of satellite and missile-related technologies in question is only one in a series of examples of this administration's easing of restrictions on the export of militarily sensitive United States technology to China.

Last year at this time, the House voted overwhelmingly and on a bipartisan basis to close a loophole in the administration's export control policy that allowed the transfer of supercomputers to, among others, Chinese institutes involved in the research and development of ballistic missiles. This year, Congress is once again faced with the need to close another loophole in current export law and we should act immediately.

While I recognize that much still remains to be learned about this latest controversy, the urgency of the export issue itself requires the Congress to act decisively and quickly in an attempt to ensure that no further damage is done to our national security. Moreover, I believe that Congress should be heard loud and clear before the President travels to China next month.

For this reason, I ask my colleagues to support the amendments offered.

Mr. SKELTON. Mr. Chairman, may I inquire of the Chair as to how much time each side has remaining?

The CHAIRMAN. The gentleman from Missouri (Mr. SKELTON), has 48 minutes remaining, and the gentleman from Arizona (Mr. STUMP), has 34 minutes remaining.

Mr. STUMP. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. SKELTON. Mr. Chairman, I yield 1 minute to the gentleman from California.

The CHAIRMAN. The gentleman from California (Mr. CUNNINGHAM) is recognized for 4 minutes.

Mr. CUNNINGHAM. Mr. Chairman, there is nobody in this House on the other side of the aisle that I respect more than my colleague, the gentleman from Missouri (Mr. SKELTON). He knows that that is true.

White House treason? No. But I would say to my colleague, I think that there has been some very poor decisions made, decisions that should concern every American family. It is not just in the China issue, it deals with foreign policy, it deals with national security that in my estimation, our defense forces are the worst off than I have seen them in 30 years that I have been associated with it.

□ 1300

That is both from taking money out of defense, and the deployments that take money like Haiti, Somalia, Bosnia, that take money out of the operation and maintenance, already out of a low budget. I think those kinds of decisions are made when you surround yourselves with very left-wing oriented members of your cabinet and staff, like Strobe Talbott. The decisions that you make, you need people there that have some kind of sense of what is good.

Let us face it, China is not the same China it was 20 years ago. There have

been a lot of changes in China. I would tell the gentleman from Missouri (Mr. SKELTON), today China is still one of the biggest threats the United States faces. So is the former Soviet Union. They are not our friends. We have to keep working in that direction, but they are very, very dangerous.

It is like a pit bull that you put inside a fence to guard you at night. You would not let that pit bull out to play with your children. That is what we are doing by this technology transfer to China. China shipped chemical and biological weapons to Iran and Iraq.

That is one of the reasons we are in Iraq right now, because COSCO, the Chinese shipping company, is right out of China, owned by the PLA, the same company that the alleged allocations went forth with the money, but yet, we turn over Long Beach Naval Shipyard to them at the President's insistence. That is wrong, and that is a poor decision. That is letting them in our back door when they are dealing with chemical and biological weapons and then missile technology.

The second thing, the nuclear triggers to Iraq, right in San Diego, my own city, Iraq tried to steal out nuclear components. Yet, China is shipping to those countries. That is dangerous. Yet, we enhance their ability on missile technology? That is wrong.

I would tell my friend that both foreign policy decisions, and I would include the United States Marine Corps in Lebanon, I think that was very poor policy under a Republican President, trapping our marines there and not letting them fight back.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Chairman, all I want to point out is that in our committee there was an amendment that passed overwhelmingly against the COSCO Chinese company taking over Long Beach. I think that was important.

Mr. CUNNINGHAM. I am aware of that. I thank the gentleman for that. That was a good decision by the committee, but I think a very poor decision by the White House, as I am trying to point out.

Foreign policy, like the extension of Somalia, where we changed from going humanitarian to going after General Aideed, and then drawing down our forces, and our military asked for armor, we do not give it, and we lose people; Haiti could have sat there in my opinion for another 200 years. But all of those cost billions of dollars, and we are taking money out of defense to pay for them. We cannot even get an FEHBP bill for veterans, and we pay $16 billion for Haiti and Bosnia. Those kinds of decisions, is what I am telling my friend, I believe are wrong.

Russia is a threat. Under the Ural Mountains, the gentleman has seen the intelligence reports, they are building a first strike nuclear site the size of inside the beltway here. They have launched six Typhoon Red October class submarines. It is a very dangerous world. Yet, my colleagues on the other side say, well, the Cold War is over.

The Cold War is not over, and when we are giving potential enemies like China and Russia technology, that should be a concern of every Member in this body. I know it is for the gentleman. It is not an issue on treason, it is an issue on national security, and one that I think that both sides of the aisle ought to stress, and we ought to look forward to it.

Mr. STUMP. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana (Mr. BURTON).

(Mr. BURTON of Indiana asked and was given permission to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Chairman, the point of all this is, was our national security jeopardized because of campaign contributions coming from Communist China? Was a technology transfer made that endangered the security of the people of this country by giving MIRVing technology, so they can hit several cities with one rocket, for campaign contributions?

Let us look at the facts. Johnny Chung has told investigators that he received $300,000 from Liu Chaoying. Who is Liu Chaoying? Liu Chaoying is a lieutenant colonel who is also an executive, an executive of China Aerospace. She is a lieutenant colonel in the Red Chinese army. Her father was the top military commander of the entire Red Chinese army. He is a senior member of the Communist party in China.

She gave $300,000 to Johnny Chung to give to the Democrat National Committee. They do not do that for their health. You do not give money to a foreign government or a foreign campaign for your health. There was a reason behind it.

We believe there were other contributions of this type that came into the Democrat National Committee, and other campaigns in the United States of America. In fact, I am sure of it. I am sure of it. What were these monies for? We know that this technology transfer took place. We know that the Justice Department was investigating it. We know that the President of the United States gave a waiver so this technology could go forth.

Was there a connection? Was our national security jeopardized because of these campaign contributions and because of this technology transfer? These are things the American people have a right to know, because every man, every woman, and every child in the future may be jeopardized because of these decisions.

Was it treason? I do not know. I hope not. I do not believe it was. I hope not. Was it incompetence? Maybe. Was it because of greed for campaign contributions? Possibly, and maybe likely. But we need to have the answers. That is why a full-scale investigation needs to take place. That is why witnesses who want to talk need to be immunized.

My colleagues on the other side of the aisle need to be patriots first and politicians second, patriots first and politicians second, because the security of the United States is at risk and at stake. I urge them to vote with me for immunity, for the sake of this country.

Mr. STUMP. Mr. Chairman, I am happy to yield 3 minutes to the gentleman from New York (Mr. GILMAN), the chairman of the Committee on International Relations.

(Mr. GILMAN asked and was given permission to revise and extend his remarks.)

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I am pleased to rise in strong support of the legislation before us today, and the amendments we will shortly consider specifically relating to the curbs on the export of technology enabling China to improve the reliability of its nuclear weapons delivery systems.

In 1992, when then candidate Clinton attacked President Bush for coddling dictators, including those who ordered the massacre of pro-democracy demonstrators at Tiananmen Square, few could have imagined how President Clinton's administration would face charges of compromising our national security at the hands of the same Chinese leaders.

Yet, in May of 1997 a highly classified Pentagon report has reportedly concluded that scientists from two leading American satellite manufacturing firms, Loral Space and Communications and Hughes, provided expertise that significantly improved the guidance and reliability of China's nuclear weapons delivery systems.

I am concerned that in their desire to promote the commercial interests of key U.S. companies, that this administration might have compromised its own efforts to limit the spread of missile technology to China, which remains today as the leading exporter of the weapons of mass destruction around the world.

As the President prepares to go to China and to visit the very same square where protesters were killed some 9 years ago, he must be mindful that any efforts to permanently waive these sanctions could further undermine our national security, and clearly give the Chinese the message that our policies on the spread of weapons and human rights abuses could be reversed by commercial considerations.

As he prepares for his summit meeting with Chinese officials, President Clinton should leave the bag of carrots at home. There should be no concessions, no deals, no permanent waivers, no new technology or science agreements, and most importantly, no shoehorning of China into a missile technology control regime that they

have been busy violating over the past decade.

In light of the fact that the President is unwilling to suspend the export of American satellites to China pending the outcome of the ongoing criminal investigation, Congress should appropriately consider amendments to the bill which will effectively curtail the export of these items. Accordingly, I urge our Members to support the amendments which will be before them today.

Mr. SISISKY. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, it is very interesting, listening to this debate. I really was not going to get into it. But the previous speaker, not the gentleman from New York (Mr. GILMAN), but the previous speaker to that, just dropped a few words in there that kind of triggered me off to jump to my feet.

He did not accuse anybody, but he said, is it not treasonous? He dropped that word. Is it incompetence? He dropped that word. Is it greed? And then had the audacity to say, I would tell that side, be patriots first and politicians second.

This is what is wrong with this debate. I do not really understand. This is a political debate, this is not a debate about China. Everybody understands the investigation that is going on. It is funny, I have not seen anything. I have read it in the papers. Now, maybe our committee should be the one that investigates this, because it is national security.

But please, let us bring ourselves up to a higher debate. Do not question the other side's patriotism. That is the wrong thing to do.

Mr. STUMP. Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida (Mrs. FOWLER), a member of the committee.

(Mrs. FOWLER asked and was given permission to revise and extend her remarks.)

Mrs. FOWLER. Mr. Chairman, I rise to express my grave concern about these recent revelations concerning the transfer of missile and other technologies to the Peoples' Republic of China, and to express my support for the package of amendments we will be taking up shortly.

I have been tracking issues relating to the transfer of critical technologies to the Peoples' Republic for some time. I must tell my colleagues that allegations regarding missile technologies are only the latest in a long series of very questionable transfers.

Previously, U.S. firms have transferred supercomputers, production hardware that would enable the Chinese to build intercontinental bombers and missiles, gas turbine technology, and much more. Some of these sales have been explicitly authorized by this administration. Others have occurred because of gray areas in the law which need to be addressed.

Allegations that campaign contributions may have influenced policy raise deeply troubling questions. I believe Congress now needs to do two things: First, it needs to go on record in opposition to the kinds of technology transfers that have recently made headlines. We have that opportunity today. I hope all of my colleagues will support the amendments before us.

Second, Congress needs to look into these questions. Allegations have been made that the administration acted inappropriately. The administration has denied wrongdoing. Mr. Chairman, the American people should know the truth. The administration should have the opportunity to explain its actions.

I would hope, however, that any initiative to look into these issues will occur in an atmosphere devoid of the kind of partisan bickering that we have seen elsewhere in this Congress recently. There are very important national security issues involved here, not the least of which is the relationship between our Nation and the world's most populous state, which is also a nuclear power.

We need to consider these matters with sobriety and a judicious temperament. The right time to begin to sort out these issues is today. I urge my colleagues to support the amendments before us.

Mr. SISISKY. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. I thank the gentleman for yielding me the time, Mr. Chairman.

Mr. Chairman, really, only in a Republican-led Congress could we have women serving all over the world defending our country and have back here this Congress rolling back their rights of equality of treatment in the military.

I refer specifically to the segment of this bill that will roll back women to segregated training. I do not know anyone who supports this except the Republican leadership. Three of the four branches of the armed service do not want it, the trainees do not want it, all the experts have recommended against it, and I am honestly not sure why we are being forced to consider, in this legislation, legislation that would segregate the men and women of our Armed Forces.

□ 1315

Earlier today and last night in a bipartisan way, the Women's Caucus asked for a bipartisan amendment that would strike this language from the bill. Our amendment was not placed in order. I cannot understand why they would not even allow a floor debate on this or a vote on this issue. I guess they think that they know that we would win.

Another problem with it is that we allocated last year $2.2 million to set up a commission to study this and other things. We have not even gotten the results of this commission. The Army says that it will cost them $159 million to implement it, when absolutely no one wants it. Basic training is a time to build trust and camaraderie. It is a time to solve problems while there is ultimate control over them. Right now I do not see what the problem is.

The military is not having a woman problem. In my opinion, it is more of a man problem. It is no longer the men at the top of the Department of Defense. General Shalikashvili, Secretary Cohen, all of them have called for integrated training. The problem is with the men who are controlling this House, the Republican leadership.

Men and women must train as they fight. You cannot solve a social problem with a logistical maneuver. Right now, as I am speaking, men and women are fighting together in Bosnia defending freedom. I do not believe that divide and conquer, which they are trying to do with this maneuver, will work here. Separating the sexes during basic training would be a tremendous mistake, a rollback. It creates an atmosphere of distrust and may affect military readiness.

I hope that this Congress will refuse in the conference committee to accept this rollback to segregate women and men in the Armed Services.

Mr. STUMP. Mr. Chairman, I yield 2 minutes and 30 seconds to the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Chairman, I rise in strong support of these four amendments. My colleague from Virginia a few moments ago asserted that this is, this has been turned into a debate that is a political debate rather than a debate about China. I hope that those who read this account in the CONGRESSIONAL RECORD will remember and take that remark and put it into perspective.

It seems that every time that alleged wrongdoing by this Democrat President is challenged or investigated, it becomes political. There is no person so pure or so consistent enough in his past behavior to investigate this President of the United States in charges that he may have done something that endangers the national security or was in some way corrupt. And given that reality to the Members on the other side of the aisle, they feel absolutely justified in obstructing and dragging out and confusing any type of investigation into this President's activities.

It is becoming clear to the American people that something has been done when it comes to our relations with China. Something terrible has happened. Every man, woman and child in this country may have been put in jeopardy because American technology could well have been transferred to the Communist Chinese in order to perfect their nuclear weapons delivery systems.

What does that mean to the American people? It means that all of us are going to be put at risk if we are ever to confront the Chinese when they commit aggression or become belligerent

or do things that threaten our national security in the future. Now, perhaps because American technology has been transferred to these Communist Chinese that enable them to launch their nuclear weapons at us more effectively, all of us are going to be put in jeopardy. This is not a political issue. This is a national security issue, just as all of those other issues were legitimate in being investigated.

I will say this, those other investigations, if they would not have been obstructed, if they would not have, if there was not intentional efforts being made to confuse the issues in those investigations, the public would have understood the importance of those issues as well. But this is too important to let politics get in the way, and it is not politics coming from this side of the aisle. It is politics which is preventing the American people from learning the truth when eight members of the Democratic Party prevent witnesses from testifying in our investigation in one of our own committees.

I strongly support this and the American people deserve to know the truth, whether they have been betrayed or not.

Mr. SISISKY. Mr. Chairman, I yield myself such time as I may consume.

It is obvious that the gentleman does not know this gentleman very well, and we do not. But I can tell him this, those who know me know that I think this is a very serious problem, if it is true, an extremely serious problem. The thing that bothers me is painting everybody, to keep referring to this side. Why? We may have some liberals over here, we may have some moderates, we may have some conservatives, but I do believe one thing, we do have patriotism over here. We do care about our country, and I know this gentleman cares about his country.

The only reason that I mentioned those other facts are the words, the words out there. That is the only reason. Let us keep this debate on a high level. I can assure the gentleman from California that this gentleman would want to investigate anything that has to do with nuclear weapons.

Mr. STUMP. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. SAXTON).

Mr. SAXTON. Mr. Chairman, I would like to say to my friend the gentleman from Virginia (Mr. SISISKY) that he and I and the gentleman from California (Mr. ROHRABACHER) are on the same side. There is no question about it. We work closely together as members of the Committee on Armed Services, and I just want him to know that the gentleman from California (Mr. HUNTER), who is sitting here by me, and the gentleman from California (Mr. CUNNINGHAM) want to convey to the gentleman how much we appreciate having been able to work with him as Americans from two different parties on these issues. We appreciate that very much.

Mr. Chairman, I wanted to just address this issue of high tech transfer from perhaps a slightly different point of view. I offered an amendment or I asked that an amendment be made in order by the Committee on Rules which I am terribly disappointed was not. It has to do with Hong Kong and transfer through Hong Kong of technology to China. There are currently two separate sets of export laws that apply to China and Hong Kong. Everyone here knows that in 1997, Hong Kong came under the rule of China. And yet we continue to have these two separate sets of laws.

So this morning in a Joint Economic Committee hearing, we asked some very knowledgeable witnesses, who, frankly, are associated or have been associated with the CIA, whether our concerns are valid on this issue. I would say to the well meaning Members of the Committee on Rules who may be listening, I think they made a mistake on this issue because witness after witness has said that these concerns are valid. This came to my attention, Mr. Chairman, because of a contractor wanting to transfer a weapons system which, if it had not been for some of us here sitting here now, would have never been a reality, a modified version of a weapons system transferred to Hong Kong, presumably eventually to be transferred to China.

Our amendment was not made in order, and I am terribly disappointed by that. But we will have other days and other forums on which to make those points.

Mr. STUMP. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I just wanted to reiterate to my friend the gentleman from Virginia (Mr. SISISKY) that one of the great things about the Committee on National Security over the last couple of years has been that despite our strong debate, especially on strategic systems on the House floor, and I admit I am often a partisan in that debate with respect to the Strategic Defense Initiative and other initiatives that I think have been given short shrift, we have always been together on technology transfer. We have been very close on that, and we have kind of held the line against other interests, particularly against commercial interests, because there is that compelling interest in commercial operations to press the advantage, to make that last sale, even though it may be militarily critical technology that is involved that one day could harm our troops on the battlefield. We have always stuck together.

Interestingly, it has been not only Republicans and Democrats, it has been conservatives and liberals. Mr. Dellums was one of the foremost proponents of restricting technology transfer and many of the people who testified before us came from various political divisions of the left and right and center in America, experts who felt that we should not send military technology to potential adversaries.

Let us work this problem on that basis. Walk through this thing, find out how much damage was done to American security and how we can stop it from further eroding.

Mr. STUMP. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. WELDON).

(Mr. WELDON of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. WELDON of Pennsylvania. Mr. Chairman, I want to thank first of all my good friend the gentleman from Arizona (Mr. STUMP) for his leadership and for my good friend, the gentleman from Missouri (Mr. SKELTON) for his leadership. This is truly a bipartisan committee, and this is truly a bipartisan bill. And this effort aimed at China and our concerns on proliferation is a bipartisan concern.

I, like my colleagues, will attest to the fact that Members on the other side have been equally aggressive to Members on our side in focusing on the proliferation problem. There has not been a division that is a political division. In fact, we have been very much united when it comes to proliferating activities, not just by China but also by Russia and other entities, North Korea and so forth.

I also rise to say that I have been one who has supported the President on China policy. I voted for MFN. In fact, in the last session of Congress, I took two delegations to China. I was the first policymaker from this country to be asked to address a group of mid-level officers in the PLA at the National Defense University in Beijing. Twice I interacted with them. Twice I discussed with them our concerns about proliferation and our concerns about our security relationship.

I plan to go back to China again this year. I believe in the policy of engagement with China. But I rise today to, in the strongest possible terms, relate to our colleagues in this body that we have a problem. The proliferation that has continually taken place by China and also by other nations, especially Russia, has got to be stopped.

Mr. Chairman, the problem is over the past several years, it actually was not just under this administration, to some extent it was done in previous administrations, in looking at our arms control agreements that are the basis of our bilateral relationships with Russia and in this case China, we have not enforced those agreements when we have caught proliferators selling off and transferring technologies to other nations.

Mr. Chairman, tomorrow there will be an op ed in the L.A. Times which will summarize my point in very great detail, as I did last Wednesday night on the floor of this body. Thirty-eight separate times in the past 7 years we have had documented cases of proliferating activities coming from two countries, coming from Russia and coming from China. Those proliferating activities

have sent technology in the area of nuclear weapons, chemical and biological weapons and missile technology to Iran, Iraq, India and Pakistan.

Now we face the music. We face a crisis. India and Pakistan are saber rattling each other with technology that we could have stopped, if we would have taken aggressive action to stop that proliferation from occurring, which is a requirement of a number of arms control agreements, the missile technology control regime, the Arms Export Control Act and a whole host of other agreements. If we would have taken steps to impose sanctions in more than half of those 38 occasions, let alone just the three where sanctions were imposed, I would argue we would not be in the position we are in today.

It is absolutely imperative that this body and this committee support the leadership on both sides of the aisle, pass these four amendments and send a signal to China that we will not tolerate any future proliferation of technology, any missile technology, any nuclear technology to Pakistan or any other Nation.

□ 1330

Because that then causes us to have to spend more money to defeat that threat once it emerges in some other Nation's hands.

So I support my chairman, I support my ranking member, the gentleman from Arizona (Mr. STUMP), and my ranking Democrat, the gentleman from Missouri (Mr. SKELTON), on their leadership, and I urge all of our colleagues to vote ''yes'' on each of the amendments that will be brought before us shortly.

Mr. SKELTON. Mr. Chairman, I yield back the balance of my time.

Mr. STUMP. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. It is now in order to consider the amendments printed in part A of House Report 104–544, which shall be considered in the following order:

Amendment No. 1 by Representative SPENCE or GILMAN;

Amendment No. 2 by Representative BEREUTER;

Amendment No. 3 by Representative HEFLEY; and

Amendment No. 4 by Representative HUNTER.

It is now in order to consider amendment No. 1 printed in part A of House Report 105–544.

AMENDMENT NO. 1 OFFERED BY MR. SPENCE

Mr. SPENCE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part A amendment No. 1 printed in House Report 105–544 offered by Mr. Spence:

At the end of title XII (page 253, after line 3), insert the following new section:

SEC. 1206. SENSE OF THE CONGRESS.

It is the sense of the Congress that—

(1) United States business interests must not be placed above United States national security interests;

(2) at the Presidential summit meeting to be held in the People's Republic of China in June of 1998, the United States should not—

(A) support membership of the People's Republic of China in the Missile Technology Control Regime;

(B) agree to issue any blanket waiver of the suspensions contained in section 902 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246), regarding the export of satellites of United States origin intended for launch from a launch vehicle owned by the People's Republic of China;

(C) agree to increase the number of launches of satellites to geosynchronous orbit by the People's Republic of China above the number contained in Article II(B)(ii) of the 1995 Memorandum of Agreement Between the Government of the United States of America and the Government of the People's Republic of China Regarding International Trade in Commercial Launch Services;

(D) support any cooperative project with the People's Republic of China to design or manufacture satellites;

(E) enter into any new scientific, technical, or other agreements, or amend any existing scientific, technical, or other agreements, with the People's Republic of China involving space or missile-related technology;

(F) agree to any arms control initiative that cannot be effectively verified, including any initiative relating to detargeting of strategic offensive missiles; or

(G) support any increase in the number or frequency of military-to-military contacts between the United States and the People's Republic of China;

(3) the decision of the executive branch in 1998 to issue a waiver allowing the export of satellite technology to the People's Republic of China was not in the national interest of the United States, given the ongoing criminal investigation by the Justice Department of the transfer in 1996 of satellite technology to that country;

(4) the executive branch should ensure that United States law regarding the export of satellites to the Peoples Republic of China is enforced and that the criminal investigation described in paragraph (3) proceeds with all due dispatch; and

(5) the President should indefinitely suspend the export of satellites of United States origin to the People's Republic of China, including those satellites licensed in February 1998 as part of the Chinasat-8 program.

The CHAIRMAN. Pursuant to House Resolution 441, the gentleman from South Carolina (Mr. SPENCE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from South Carolina (Mr. SPENCE).

Mr. SPENCE. Mr. Chairman, I yield myself 2 minutes.

(Mr. SPENCE asked and was given permission to revise and extend his remarks.)

Mr. SPENCE. Mr. Chairman, I rise along with the gentleman from New York (Mr. GILMAN) to offer this amendment expressing the sense of Congress on the transfer of United States satellite missile technology to China.

As the events surrounding the Clinton administration's decision to transfer sensitive military-related technology to China continue to unfold, it is becoming increasingly clear that United States national security continues to take a back seat to trade with China. Our amendment would place the Congress clearly on record in opposition to any agreements that the President might negotiate at next month's summit in China that would make it easier for China to acquire our technology that can be used to improve its military capability, in particular its ballistic missile capability.

As has been reported in the press, the administration is reportedly considering issuing a blanket waiver of the so-called Tiananmen Square sanctions against China, approving the export of more United States satellites to China, and even allowing joint satellite production.

This amendment would also express the sense of Congress that the President's decision to allow the export of satellite technology to China earlier this year, despite the reported DOD assessment that ''United States national security has been harmed'' by a previous satellite transfer of technology, was not in the national interest.

The administration has reportedly developed plans in recent weeks to increase the level of space cooperation with China and to encourage the sharing of missile and space technology. In a memorandum reportedly prepared by the National Security Council and printed in full in the Washington Times, and I would like to submit that for the RECORD, it was suggested that additional space- and missile-related technology might be transferred to China as an incentive for China to join the Missile Technology Control Regime.

As a member of that regime, China would be eligible to acquire missile technology it cannot currently attain legally. However, while China has already said it would abide by the regime's restrictions, those pledges have repeatedly proven to be hollow. China's record of missile proliferation should give Members little comfort about Beijing's willingness to abide by its international nonproliferation obligation.

In simple terms, Congress must speak loudly and clearly today to ensure that the United States does not take any action that helps China to improve its military capability, especially its ballistic missile capabilities.

Mr. Chairman, China is clearly working overtime to improve its military might, and it views ballistic missiles as a quick and effective way to do so. The United States should refuse to be an accomplice to that effort, yet under the guise of constructive engagement and increasingly open trade, we are doing just that.

Mr. Chairman, I urge my colleagues to support the Spence-Gilman amendment and to send a clear message to the President before he travels to China next month that the Congress strongly opposes any policy that places business interests over the national security interest.

Mr. GILMAN. Mr. Chairman, I rise today as a coauthor of the amendment offered by my good friend, the gentleman from South Carolina, the distinguished Chairman of the Committee on National Security, Mr. SPENCE.

I hope that this amendment would be unanimously adopted by the House. It simply sets forth the sense of the Congress on an issue of vital importance to America's national security—the transfer of missile technology to China.

To that end, this amendment calls on the President to indefinitely suspend the export of U.S. satellites to China, including those satellites licensed in February of 1998 as part of the CHINA–SAT–8 program.

This amendment also expresses the sense of the Congress that during the Presidential summit meeting to be held in China next month, the United States should not support or enter into any agreements with China which would further expand cooperation with China.

I am particularly concerned about the Administration's stated intent to support China's membership in the Missile Technology control Regime.

China continues to provide missile technology and components to both Pakistan and Iran. Since 1991 the United States has sanctioned China twice for violations of U.S. missile proliferation laws.

I do not comprehend the logic, given China's record, of offering them MTCR membership. Perhaps it is for the reasons explicitly stated in a National Security Council memorandum. Regrettably these are precisely the wrong reasons.

That memorandum, which is dated March 12, 1998, states that the U.S. should support Chinese membership because [quote] this would provide China with political prestige, the ability to shape future MTCR decisions, substantial protection from future U.S. missile sanctions and would expedite somewhat the consideration of U.S. exports to China. [unquote]

I am concerned that in the mad rush to obtain better relations with the Chinese, we will enter into another deal with china to be delivered at the June summit, in which we throw our non-proliferation principles out the window.

In order to cut the nuclear deal at last year's summit, we sacrificed full scope safeguards. What will we sacrifice for a missile deal?

We all know this Administration was too eager to offer the Russian membership in the MTCR. The Russians have flouted every precept of the MTCR by transferring missile components and technology to Iran.

Moreover, let me point out that this amendment calls upon the Administration to ensure that U.S. laws regarding the export of satellites to China are enforced and that the criminal investigation of U.S. companies proceed with all due dispatch. This is a critical consideration which we must not overlook.

Accordingly, I urge all Members to fully support this amendment.

Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in strong support of this amendment that is offered by the gentleman from South Carolina (Mr. SPENCE) and the gentleman from New York (Mr. GILMAN).

The total umbrella of American issues with the Chinese, and there are lots of issues, most of them commercial issues, a lot of them technology transfer issues, is largely governed by the administration's policies that are brought about in these discussions with Chinese leaders.

There is going to be an upcoming presidential summit. That has been pointed out. A lot of the things that we are concerned about, like Chinese membership in the Missile Technology Control Regime, the waiver the gentleman from South Carolina mentioned of the Tiananmen Square sanctions, increases in space launches, a number of those critical issues are going to be discussed. I think it is very important for this House to lay down its marker right now and let the administration know that we are very concerned on a national security basis of what he is doing in this next meeting with Chinese leaders.

I think this is an absolutely appropriate amendment. I hope everybody would vote ''yes''.

Mr. SPENCE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina (Mr. SPENCE).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. SPENCE. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 441, further proceedings on the amendment offered by the gentleman from South Carolina (Mr. SPENCE) will be postponed.

It is now in order to consider amendment No. 2 printed in part A of House Report 105–544.

AMENDMENT NO. 2 OFFERED BY MR. BEREUTER

Mr. BEREUTER. Mr. Chairman, I offer an amendment made in order by the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part A amendment No. 2 offered by Mr. BEREUTER:

At the end of title XII (page 253, after line 3), insert the following new section:

SEC. 1206. INVESTIGATIONS OF SATELLITE LAUNCH FAILURES

(a) PARTICIPATION IN INVESTIGATIONS.—In the event of the failure of a launch from the People's Republic of China of a satellite of United States origin, no United States person may participate in any subsequent investigation of the failure.

(b) DEFINITION.—As used in this section, the term ''United States person'' has the meaning given that term in section 16 of the Export Administration Act of 1979, and includes any officer or employee of the Federal Government or of any other government.

The CHAIRMAN. Pursuant to House Resolution 441, the gentleman from Nebraska (Mr. BEREUTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Chairman, I yield myself such time as I may consume.

(Mr. BEREUTER asked and was given permission to revise and extend his remarks.)

Mr. BEREUTER. Mr. Chairman, this amendment would prohibit United States participation in any post-launch failure investigations involving the launch of a U.S. satellite from the People's Republic of China.

On February 15, 1996, a Chinese rocket carrying a satellite built by the Loral Corporation crashed on liftoff from a launch facility in southern China. In the aftermath of that launch failure, the PRC established a review commission to investigate the failure and determine what went wrong. American technical experts from Loral and Hughes electronics participated in this investigation. On May 10th of that year, this commission completed a preliminary report finding that the cause of the accident was an electrical failure in the electronic flight control system. The report discussed very sensitive aspects of the rocket's guidance system and flight control system. Copies of this unredacted report, including much highly sensitive material, was promptly shared with the Chinese prior to its presentation to U.S. officials!

In the aftermath, the U.S. Air Force and the National Air Intelligence Center completed a damage assessment of the incident, and found that U.S. national security had been harmed. My colleagues will understand that providing technical information designed to address problems in Chinese rocket guidance and flight control systems also addressed the same problems in Chinese Intercontinental Ballistic Missiles (ICBMs). There is a real question as to whether Chinese ICBMs are more accurate and reliable because of the advise of American citizens, and ICBMs pose a very real risk to the United States.

Regrettably, and amazingly, Mr. Speaker, some of those Americans who participated in the Chinese rocket failure investigation argued that they were under no obligation to return the copies of this highly sensitive report.

Now, the background on this amendment is that it seeks to prevent the transfer of sensitive military-related information to China. In 1996, two companies, Loral and Hughes, participated in a launch failure investigation involving the failed launch from China of a U.S. satellite on a Chinese launch vehicle.

As a result of that investigation, information was passed to China that quite apparently could be used to improve the guidance accuracy and warhead delivery capability of China's missiles. The information was reportedly transferred illegally, without a license from the State Department, that is, and the incident is now the subject of a Justice Department criminal investigation.

Even asking questions, Mr. Chairman, of the Chinese during investigations can transmit technical information and assist China in improving its launch capabilities. Anybody that understands even a little bit about gaining intelligence knows this is a process for gaining intelligence, even though it

would be the intention, perhaps, and certainly would be the intention, I would imagine, of these firms not to transfer classified and sensitive information.

Now, this amendment would make it clear that the Congress is opposed to assisting China in the development of its space launch and missile capabilities. Why? Because Chinese missiles are targeted at U.S. cities and, obviously, we do not want to make them more accurate and jeopardize American lives.

I can tell my colleagues that as unfortunate as the Indian nuclear explosions are, that is a related incident, because if Chinese missiles are more accurate, it creates instability not only in Asia but certainly in South Asian countries like India. This amendment would help prevent the transfer of militarily sensitive U.S. technology to China that could be used to improve that missile capability.

The amendment would relieve American industry from the burden of determining what information can and cannot be transmitted to China by preventing U.S. participation in launch failure investigations.

The amendment would also discourage U.S. satellite companies from seeking to launch satellites on Chinese launch vehicles. That is not the primary intent, but that is likely to be the result. If those launch vehicles are likely to be a failure or prone to failure, that would encourage alternative, more commercially viable launch options, including commercial American launch services.

The amendment, therefore, Mr. Chairman, would send what should be a very obvious and certainly important signal prior to President Clinton's upcoming summit trip to China that the United States should not agree to measures that would help China improve its space launch or missile launch capabilities. The guidance systems on these missiles are all-important in determining how vulnerable our population really is, and so it is in our best interest not to have this technology flowing to China or, for that matter, to any other country.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Missouri, the distinguished ranking Democrat member of the Armed Services Committee, now called the Committee on National Security.

Mr. SKELTON. Mr. Chairman, I thank my friend from Nebraska for yielding to me.

I take this opportunity, however, to point out that in our research the amendment, in part, simply repeats well-established legal requirements, and we are going to hammer that nail in, I guess, twice today.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman for his comments.

Mr. Chairman, I yield 30 seconds to the gentleman from Indiana (Mr. BUYER), and I apologize it is not more.

Mr. BUYER. Thirty seconds?

Well, in 30 seconds, let me just say, let us do the right thing.

I am a Member that is very disturbed about the transfers of technology. Just pause for a moment in this body. We serve a greater cause than corporations. Corporations serve the bottom line, called profit, and their responsibility is to their stockholders. Our responsibility is, in fact, to the taxpayers and the citizens of this country under the umbrella of national security.

So for the White House to sell out for other reasons, to corporations for profit, by pressure, we serve a greater cause here and there better be a deep appreciation of this.

The CHAIRMAN. The time of the gentleman from Nebraska (Mr. BEREUTER) has expired.

Mr. BUYER. Mr. Chairman, I ask unanimous consent that I be allowed to claim the opposition's time.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The CHAIRMAN. The gentleman from Indiana (Mr. BUYER) may control the time otherwise reserved for the opposition.

Mr. BUYER. Mr. Chairman, I yield myself such time as I may consume.

What was very concerning to me was to learn that in 1996 Loral and Hughes had exported commercial satellites to China to launch the Chinese missile and then, in fact, it had exploded.

A Loral subsidiary provided technicians and a report on improving the reliability of the Long March Rocket without first consulting U.S. officials.

And then to learn that the Chinese military officer, in fact, had funneled $100,000 to the Clinton campaign, allegedly through Johnny Chung.

We also have Mr. Schwartz, the chairman of Loral Space Communications, who was the leading soft money donor for the Democrat Party in 1996 in the amount of $366,000. Subsequently, there was a Justice Department investigation.

And then in February of 1998 the Justice Department criminal inquiry was dealt a very serious blow when President Clinton quietly approved the export to China of similar guidance technology by Loral. Basically, what that did was then defunct the Justice Department investigation.

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There are so many allegations that are happening in this town with regard to the administration and what is going on, I cannot even keep up with them. But what I can say when it comes to matters of national security, the proliferation issues, the transfers of technology, to think that the United States would transfer these technologies by redefining what a satellite is, is no longer under the munitions definition, somehow being slick in getting around definitions, believe me, other countries out there react to it.

So people in America, when they were surprised to learn about India's detonation and learning about their nuclear capacities, should not be surprised, because if the administration is doing such things like this, it will cause reactions.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. BUYER. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding. And I appreciate everything he has said, and I think it goes right to the heart of the Bereuter amendment, which prohibits the U.S. participation in what we call these post-launch failure investigations or debriefings involving the launch of a satellite from China.

The problem is that the Long March rockets, which are used in their strategic systems that are nuclear tipped, some of which are aimed at U.S. cities, are the same rockets that we launch these satellite payloads on. And the way that Loral and Hughes got into trouble here was after a launch went down and they lost a $200 million package, they realized it was in their economic self-interest to show the Chinese how the missile worked. Once again, it was like the guy laying under the guillotine saying, ''I think I see your problem,'' when the guillotine sticks.

So by banning these post-launching debriefings after a failure, which is exactly what the very wise gentleman from Nebraska (Mr. BEREUTER) does here, we take away the temptation from American companies to not only show them how they messed up on this particular launch, but to give them a little more liability for future launches, because they know the profit margin of their stockholders are in part riding on the reliability of these Chinese missiles, which also carry nuclear warheads, which are sometimes aimed at U.S. cities.

So we have got this conflict between commercial interests and national security interests, and the Bereuter amendment is right on point.

Mr. BUYER. Mr. Chairman, reclaiming my time, this is not solely about rockets that may reach U.S. cities. We also have allies in the Pacific Rim for which we have responsibilities within that security of the world. And to think that China, when they had threatened Taiwan and the more we sophisticate their weaponry to inflict harm upon our own allies, how can we in fact count on them if we cannot stand with them in moments like this?

Mr. HUNTER. If the gentleman would continue to yield, he is absolutely right. We are going to be seeing a requirement for greater and greater American deterrent force to go to places like Taiwan as we see the strategic missile capability of the Communist Chinese increase. He is right on point.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Nebraska (Mr. BEREUTER).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. BEREUTER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 441, further proceedings on the amendment offered by the gentleman from Nebraska (Mr. BEREUTER) will be postponed.

It is now in order to consider Amendment No. 3 printed in part A of House Report 105–544.

AMENDMENT NO. 3 OFFERED BY MR. HEFLEY

Mr. HEFLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part A amendment No. 3 offered by Mr. HEFLEY:

At the end of title XII (page 253, after line 3), insert the following new section:

SEC. 1206. PROHIBITION ON EXPORTS OF MISSILE EQUIPMENT AND TECHNOLOGY TO CHINA.

No missile equipment or technology (as defined in section 74 of the Arms Export Control Act (22 U.S.C. 2797c)) may be exported to the People's Republic of China.

The CHAIRMAN. Pursuant to House Resolution 441, the gentleman from Colorado (Mr. HEFLEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Colorado (Mr. HEFLEY).

Mr. SKELTON. Mr. Chairman, may I at this point, since no Member has risen in opposition, ask unanimous consent to be permitted to control the time normally allotted to the opposition?

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The CHAIRMAN. The gentleman from Missouri may control time otherwise reserved for opposition.

Mr. HEFLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is actually the Hefley-Ryun amendment, and I would like to speak just a few minutes on it. Mr. Chairman, it is a very simple amendment that would address what I think is a fatal flaw in the Administration's current policy on China. That amendment deals with not all the other things that have been talked about here today, this deals strictly and thoroughly with national security.

The amendment would simply prohibit the export or reexport of United States missile technology or equipment to the People's Republic of China. One would think common sense tells us that we should not send any of our defense-related technology or equipment to the only remaining communist country in the world that maintains a nuclear capability.

In 1996, the Clinton administration reportedly permitted the two U.S. firms to transfer technology which would improve the accuracy and capability of Chinese ballistic missile forces. Some may say trade involving space launch vehicles and satellite technology used for commercial purposes should not be impeded. But the commercial and military technology in this case are virtually identical, and it is a risk we simply cannot take.

If we launch a rocket which has the capability of launching more than one satellite, then we have the same technology that we do for multiple warheads on an intercontinental ballistic missile, same technology.

The Chinese had a problem. Their rockets tended to blow up and they tended not to get to where they were supposed to go. So we stepped in and we said, let us help you. Let us fix that. I think if every Member of this body were to ask their constituents back home if the current policy makes sense, they would hear a resounding ''no.''

This is a clear vote to make it harder for potential adversaries to threaten the American people, and I urge all Members to support this amendment.

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume.

I would appreciate if the gentleman would tell me what this does that is not already applicable under the existing law.

Mr. HEFLEY. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from Colorado.

Mr. HEFLEY. Mr. Chairman, what this does is it removes the waiver system under which what happened did happen so no missile-related technology could be transferred to the Chinese.

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Chairman, I thank the gentleman for yielding.

The main point that I want to make really has less to do with this amendment than my concern about the bill in general. As Members of Congress, all of us want to do all kinds of things. One can make an argument that the military today needs $270 billion. But I think, given the growing gap between the rich and the poor in America, given the fact that millions of senior citizens in this country are unable to afford their prescription drugs, given the fact that there is an enormous crisis in child care in this country, given the fact that there has been a growth in recent years of people using emergency food shelters, people sleeping out on the streets, I think the time is now to get our priorities right.

I believe that this country needs a strong military, but I think that there are other needs out there that are not being adequately addressed as we put $270-some-odd billion into the military, more than is needed by the intelligence agencies. And we should also recognize that not only are we putting substantial sums of money into our military, we are also part of NATO, which is a major military alliance as well.

The bottom line for me is to say that now that the Cold War is over, is it appropriate to continue spending so much money on the military when there are so many other needs in this country? Is it appropriate to continue to build weapons systems that we do not need when this country continues to have by far the highest rate of childhood poverty in the industrialized world? Is it appropriate that we are spending money on the military with the end of the Cold War when our educational system is lacking in so many respects, when the weakest and most vulnerable people in this country are hurting and not getting the governmental support that they need?

So I want to just thank the gentleman from Missouri (Mr. SKELTON) for yielding me this brief time to suggest that I will be voting against the entire bill. Because I think it does not, now that the Cold War is over, indicate a rationale and sensible set of priorities for this country.

Mr. HEFLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. PAPPAS).

(Mr. PAPPAS asked and was given permission to revise and extend his remarks.)

Mr. PAPPAS. Mr. Chairman, I stand in strong support of these amendments.

Mr. Chairman, I serve on the National Security Committee. I see where we are trying to keep many fires burning in all corners of the world. America is sending troops to Bosnia, sending carriers to places like the Persian Gulf, trying to prepare a missile defense system, modernize equipment, invent future technologies while cutting troops, stopping research, and extending the life of old systems.

Now we have to add a new need to the mix. And it is an urgent need. Communist China. Missiles aimed at America. How do we as a Congress respond?

Well, I think what we must do is to protect America first. Congress must provide for the national defense of our country. Business interests, as much as I support them in many areas, must be second to the protection of U.S. national security interests. We must stop the flow of sensitive technology that makes the Chinese Army and Navy stronger.

I am concerned about the politics involved but that can not be used by any party to distract from defending our country or as an excuse to point fingers and not do anything. This is our chance to plug these loopholes now! Partisanship can wait for another day.

We have seen the results of failure to stop the spread of this missile technology. India has recently tested nuclear devices. One of the reported main reasons for this test has been India's fear of China's ability to use nuclear technology against them. Rightly or wrongly, India perceives the advances in Chinese technology, with U.S. help as a threat. Now the world is facing a possible renewed nuclear arms race. Perhaps this could have been avoided if our country had the foresight to stop this.

As such, I would urge this Congress to support the four amendments dealing with Chinese technology today. We must empower

this Congress and our Defense Department to make national security decisions, not business people solely concerned with the bottom line.

I also would draw this Congress' attention to an amendment that was offered by Mr. SAXTON that was not ruled in order that would close the loophole to China known as Hong Kong. Last time I checked, Hong Kong was now under Communist Chinese Control and the previous government has been replaced by PLA representation. However, we can send sensitive military technology to Hong Kong but not China. Although this amendment was not ruled in order, I hope this Congress will continue to pay attention to this loophole that will probably be the conduit to more threats against U.S. interests.

I would ask that this Congress support these four amendments. Each should send a bipartisan measure that this Congress does not want to arm potential adversaries with weapon systems for nuclear capabilities.

Mr. HEFLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas (Mr. RYUN), the cosponsor of this amendment.

(Mr. RYUN asked and was given permission to revise and extend his remarks.)

Mr. RYUN. Mr. Chairman, one thing that has been truly a pleasure in serving our national security is that when we come to an issue such as this that is really a national security issue for this country, I have seen this committee come together in such a way that they worked on policy and not on politics. So I hope today that it will be unanimous and strong support for this amendment, the Hefley-Ryun amendment, because I do believe there is a threat with communist nuclear missiles.

In 1996, after the failed launch of the Chinese Long March missile, engineers from the United States aerospace firms went to China to lend their expertise to Great Wall Industries, the manufacturer of these particular missiles.

A 1997 classified Department of Defense report concluded that at least one U.S. company gave sensitive missile guidance technology to the Chinese. The DOD report then concluded that that transfer damaged our national security. So that is why this is beyond politics and it is really into policy.

Next month, President Clinton will visit Beijing. He is expected to announce a new space cooperation agreement and possibly discuss lifting sanctions on the transfer of further military technology. As long as China remains a communist country and transfers technology to regimes such as Iran and Pakistan are possible through China, the United States should not share its commercial space technology that could be used against us for military purposes.

China has 13 long-range missiles aimed at the United States. The CIA just confirmed this a couple weeks ago. It also considers the United States its number one security threat. No agreement increasing technology transfers to Communist China should be pursued. It is irresponsible to advance the military capabilities of a communist country, even more so as the U.S. lacks missile defense programs that are necessary to combat these.

It is unfortunate that we need to offer this amendment today. The issue is clear. The United States should not provide missile technology to communist countries. And it is my hope that colleagues on the opposite side of the aisle will join us in supporting the Hefley-Ryun amendment.

Mr. HEFLEY. Mr. Chairman, may I inquire how much time is remaining?

The CHAIRMAN. The gentleman from Colorado (Mr. HEFLEY) has 30 seconds remaining. The gentleman from Missouri (Mr. SKELTON) has 2 minutes remaining.

Mr. SKELTON. Mr. Chairman, I yield 30 seconds to the gentleman from Indiana (Mr. BUYER).

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Mr. BUYER. Mr. Chairman, I thank my friend for yielding to me. I just wanted to do a reminder to my colleagues.

If you recall, it was several years ago we had a debate in the Committee on National Security, and that was who should make these decisions on the transfers of these type of technologies. At the time, the administration wanted the Committee on Commerce to do that and to take the Pentagon out of that question. We made the decision in a very bipartisan manner in the Committee on National Security, that we felt matters such as this are so important to our Nation that the Pentagon needs to be in the loop.

When we force the Pentagon into the loop and when the Pentagon raises objections, they then get squashed, that is not a good thing.

I support the Hefley amendment to remove the waiver authority by the President.

Mr. SKELTON. Mr. Chairman, I yield back the balance of my time.

Mr. HEFLEY. Mr. Chairman, I yield 30 seconds to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I just want to strongly endorse the Hefley amendment. This chart shows all of the aspects of missile technology that are manifest in a commercial satellite program. They include payload disbursal technology, kick motor technology, radiation hardened electronics, encryption devices, launcher attitude control.

So there are a lot of aspects of technology beyond the mere delivering of a package that can assist the Chinese rocket program. So the amendment of the gentleman from Colorado (Mr. HEFLEY) is right on target; I would recommend its approval.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. HEFLEY).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. HEFLEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 441, further proceedings on the amendment offered by the gentleman from Colorado (Mr. HEFLEY) will be postponed.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in part A of House Report 104–544.

AMENDMENT NO. 4 OFFERED BY MR. HUNTER

Mr. HUNTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part A, amendment No. 4 offered by Mr. HUNTER:

At the end of title XII (page 253, after line 3), insert the following new section:

SEC. 1206. PROHIBITION ON EXPORTS AND REEXPORTS OF SATELLITES TO CHINA.

(a) IN GENERAL.—No satellites of United States origin (including commercial satellites and satellite components) may be exported or reexported to the People's Republic of China.

(b) PROHIBITION WITH RESPECT TO INFORMATION, EQUIPMENT, AND TECHNOLOGY.—No information, equipment, or technology that could be used in the acquisition, design, development (including codevelopment), or production (including coproduction) of any satellite or launch vehicle may be exported or reexported to the People's Republic of China.

(c) APPLICABILITY.—Subsections (a) and (b) apply to any satellite, information, equipment, or technology that as of the date of the enactment of this Act has not been exported or reexported to the People's Republic of China, whether or not an export license for such export or reexport has been approved as of such date.

The CHAIRMAN. Pursuant to House Resolution 441, the gentleman from California (Mr. HUNTER) and a Member opposed each will control 5 minutes.

Mr. SKELTON. Mr. Chairman, since no Member has risen in opposition, I ask unanimous consent that I be permitted to control the time.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have spoken about this amendment for some time now during this debate. I think most of the folks that are listening to the debate understand the problem. The problem is that there is an inextricable link between the satellite technology that we have been transferring to China pursuant to our satellite launch partnership with them and their nuclear missile capability.

While we are trying to sort this problem out, Mr. Chairman, it makes sense for us to stop the train, to put on the brakes and say we are not going to make any transfers, no export or reexport of U.S. satellites, including commercial satellites and satellite components, to the People's Republic of

China. That is what this amendment does.

Mr. Chairman, in this crash we saw another problem that we had not thought about, and that is that we have these packages which, in theory, are protected against Chinese scientists and engineers being able to examine the contents even while they are in China. I listened to the President of Hughes Electronics tell me very passionately how these packages are guarded and nobody is allowed to come close to them, so the engineers in this Communist country will have no ideas what is inside the packages.

The problem is, if you have an aborted launch like the one that we had or a disastrous launch where the Chinese missile with the satellite package atop it goes down in China, and the damage is then recovered and analyzed by the People's Liberation Army of China, they then have access to all of the contents of that satellite package.

Let me just say, Mr. Chairman, without having the most recent briefings, which the administration I think has been somewhat reluctant to give, on exactly what transpired after the crash, I am concerned and I am worried that some things were recovered by the People's Liberation Army that should not have been recovered.

So this amendment bans the export and reexport of U.S. satellites, including commercial satellites and satellite components into the People's Republic of China. I think it is a timely amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I wish to point out that we are hammering the nail in that is already been flush to the board. Nevertheless, let me point this out: No controlled information relevant to ballistic missiles or warhead delivery technology has been authorized to be made available to Chinese authorities in connection with past space launches of commercial satellites.

The existing procedures, including the technical safeguards agreement negotiated under the Bush administration, that is the previous Republican administration, signed in February 1993, explicitly prohibit transfer of technology related to launch vehicles. Warhead delivery technology was also prohibited.

Mr. Chairman, I yield back the balance of my time.

Mr. HUNTER. Mr. Chairman, how much time do we have remaining?

The CHAIRMAN. The gentleman from California (Mr. HUNTER) has 2½ minutes remaining.

Mr. HUNTER. Mr. Chairman, I yield 1½ minutes to the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I have a question for the author of the amendment. Earlier I rose and discussed that this question came up several years ago in the Committee on National Security with regard to the jurisdiction question on commodity.

As I understand, on commodity jurisdiction, the transfer from the State Department with regard to satellites that used to be classified under the munitions has now been transferred to the Commerce Department, who would look at the satellite and say this is really dual-use technology. Am I understanding that correctly?

Mr. HUNTER. Mr. Chairman, if the gentleman will yield to me, that is right. Oversight or the primary review of the satellite transfers has now been taken away from the Department of Defense, who look at it from a national security standpoint, and given to the Department of Commerce, which arguably does not have the experts to understand exactly what is being transferred, and does not have probably the political will that the Department of Defense has to keep critical militarily strategic components from going to the hands of our potential adversaries. The Defense Department is tougher on these transfers.

Mr. BUYER. But the sensitivity about the duality of the purposes, saying that this is a rocket system that could only launch a satellite, in essence is the same rocket system that it would take to send a nuclear warhead anywhere in the world.

Mr. HUNTER. The gentleman is exactly right. In fact, it is exactly the same missile. The Chinese use the same missile both for the satellite launch and for the nuclear weapons launch. That is why it is so critical to really examine these packages.

Mr. BUYER. So earlier when the House adopted an amendment that said no to the President on waivers of munitions, this amendment is saying no to the waivers on the commodities?

Mr. HUNTER. That is right. This thing bans the export and reexport.

Mr. BUYER. Mr. Chairman, I support the amendment.

The CHAIRMAN. The gentleman from California (Mr. HUNTER) has 1 minute remaining.

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me just make this clear. This bans the export and reexport of U.S. satellites, including commercial satellites and satellite components, to the People's Republic of China. I think it is necessary at this time.

My friend the gentleman from Missouri pointed out that we have waived or we have allowed these transfers in the past under the Bush administration. That is true. I led off my debate by saying this has gone back a long way.

I think, in light of the activities that have taken place in recent years, 1996 through 1998, I personally have a problem in trusting the folks that are making the decision to go or no go on satellite transfer, to allow them to have the discretion at this time.

Mr. Chairman, I think this is a prudent thing for the House to put on the brakes at this point and to hold up all transfers until we sort out how much damage has been done, and damage has been done, according to the Department of Defense.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HUNTER).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. HUNTER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 441, further proceedings on the amendment offered by the gentleman from California (Mr. HUNTER) will be postponed.

SEQUENTIAL VOTES POSTPONED IN THE COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 441, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. A–1 offered by the gentleman from South Carolina (Mr. SPENCE); amendment No. A–2 offered by the gentleman from Nebraska (Mr. BEREUTER); amendment No. A–3 offered by the gentleman from Colorado (Mr. HEFLEY); and amendment No. A–4 offered by the gentleman from California (Mr. HUNTER).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. A–1 OFFERED BY MR. SPENCE

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from South Carolina (Mr. SPENCE) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 417, noes 4, not voting 11, as follows:

[Roll No. 167]

AYES—417

Abercrombie	Berman	Bryant
Ackerman	Berry	Bunning
Aderholt	Bilbray	Burr
Allen	Bilirakis	Burton
Andrews	Bishop	Buyer
Archer	Blagojevich	Callahan
Armey	Bliley	Calvert
Bachus	Blumenauer	Camp
Baesler	Blunt	Campbell
Baker	Boehlert	Canady
Baldacci	Boehner	Capps
Ballenger	Bonilla	Cardin
Barcia	Bonior	Castle
Barr	Bono	Chabot
Barrett (NE)	Borski	Chambliss
Barrett (WI)	Boswell	Chenoweth
Bartlett	Boucher	Christensen
Barton	Boyd	Clayton
Bass	Brady	Clement
Becerra	Brown (CA)	Clyburn
Bentsen	Brown (FL)	Coble
Bereuter	Brown (OH)	Coburn

Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOES—4

Hamilton
Hastings (FL)
McDermott
Wexler

NOT VOTING—11

Bateman
Cannon
Carson
Clay
Ewing
Gonzalez
Harman
Meeks (NY)
Mollohan
Stabenow
Stark

□ 1429

Mr. HASTINGS of Florida and Mr. McDERMOTT changed their vote from ''aye'' to ''no.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT A–2 OFFERED BY MR. BEREUTER

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Nebraska (Mr. BEREUTER) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 414, noes 7, not voting 11, as follows:

[Roll No. 168]

AYES—414

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner

Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOES—7

Campbell
Hamilton
Hastings (FL)
McDermott
Watt (NC)
Wexler
Yates

NOT VOTING—11

Bateman
Carson
Clay
Cox
Diaz-Balart
Ewing
Gonzalez
Harman
Meeks (NY)
Norwood
Stabenow

□ 1439

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. DIAZ-BALART. Mr. Chairman, on rollcall No. 168, I was inadvertently detained. Had I been present, I would have voted "yes."

AMENDMENT A–3 OFFERED BY MR. HEFLEY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Colorado (Mr. HEFLEY) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 412, noes 6, not voting 14, as follows:

[Roll No. 169]

AYES—412

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McGovern
McHale
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOES—6

Campbell
Hamilton
Hastings (FL)
McDermott
Moran (VA)
Wexler

NOT VOTING—14

Bateman
Brady
Carson
Clay
Cox
Ewing
Fawell
Gonzalez
Harman
Hill
McIntosh
Meeks (NY)
Stabenow
Weldon (FL)

□ 1448

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. WELDON of Florida. Mr. Chairman, on rollcall No. 169, I was inadvertently detained. Had I been present, I would have voted "yes."

AMENDMENT A–4 OFFERED BY MR. HUNTER

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. Hunter) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a five-minute vote.

The vote was taken by electronic device, and there were—ayes 364, noes 54, not voting 14, as follows:

[Roll No. 170]

AYES—364

Abercrombie
Aderholt
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bentsen
Bereuter
Berman
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Coyne
Cramer
Crane
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dingell
Doggett
Doolittle
Doyle
Duncan
Dunn
Edwards
Ehrlich
Emerson
Engel
English
Ensign
Etheridge
Evans
Everett
Fawell
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez

Gutknecht	McCollum	Roukema
Hall (OH)	McCrery	Royce
Hall (TX)	McDade	Rush
Hansen	McGovern	Ryun
Hastert	McHale	Sanders
Hastings (WA)	McHugh	Sandlin
Hayworth	McInnis	Sanford
Hefley	McIntosh	Saxton
Hefner	McIntyre	Scarborough
Herger	McKeon	Schaefer, Dan
Hill	McKinney	Schaffer, Bob
Hilleary	McNulty	Schumer
Hilliard	Meehan	Scott
Hinchey	Meek (FL)	Sensenbrenner
Hinojosa	Menendez	Sessions
Hobson	Metcalf	Shadegg
Hoekstra	Mica	Shaw
Holden	Millender-McDonald	Shays
Hooley	Miller (CA)	Sherman
Horn	Miller (FL)	Shimkus
Hostettler	Minge	Shuster
Hoyer	Mink	Sisisky
Hulshof	Moakley	Skeen
Hunter	Mollohan	Skelton
Hutchinson	Moran (KS)	Slaughter
Hyde	Morella	Smith (MI)
Inglis	Murtha	Smith (NJ)
Istook	Myrick	Smith (OR)
Jackson (IL)	Nadler	Smith (TX)
Jackson-Lee (TX)	Neal	Smith, Linda
Jefferson	Nethercutt	Snowbarger
Jenkins	Neumann	Snyder
John	Ney	Solomon
Johnson (WI)	Northup	Spence
Johnson, E. B.	Norwood	Stark
Johnson, Sam	Nussle	Stearns
Jones	Oberstar	Stenholm
Kanjorski	Oxley	Stokes
Kaptur	Packard	Strickland
Kelly	Pallone	Stump
Kennedy (MA)	Pappas	Stupak
Kennedy (RI)	Parker	Sununu
Kennelly	Pascrell	Talent
Kildee	Pastor	Tanner
Kim	Paul	Tauzin
Kind (WI)	Paxon	Taylor (MS)
King (NY)	Payne	Taylor (NC)
Kingston	Pease	Thompson
Kleczka	Pelosi	Thornberry
Klink	Peterson (MN)	Thune
Klug	Peterson (PA)	Thurman
Knollenberg	Petri	Tiahrt
Kucinich	Pickering	Tierney
LaHood	Pitts	Torres
Lampson	Pombo	Towns
Lantos	Pomeroy	Traficant
Largent	Porter	Turner
Latham	Portman	Upton
LaTourette	Poshard	Velazquez
Lazio	Price (NC)	Vento
Leach	Pryce (OH)	Visclosky
Levin	Quinn	Walsh
Lewis (CA)	Radanovich	Wamp
Lewis (KY)	Rahall	Watkins
Linder	Ramstad	Watts (OK)
Lipinski	Rangel	Waxman
Livingston	Redmond	Weldon (FL)
LoBiondo	Regula	Weldon (PA)
Lowey	Riggs	Weller
Lucas	Riley	Weygand
Luther	Rivers	White
Maloney (CT)	Rodriguez	Whitfield
Maloney (NY)	Roemer	Wicker
Manton	Rogan	Wise
Markey	Rogers	Wolf
Martinez	Rohrabacher	Woolsey
Mascara	Ros-Lehtinen	Wynn
McCarthy (NY)	Rothman	Young (AK)
		Young (FL)

NOES—54

Ackerman	Fazio	Olver
Allen	Furse	Ortiz
Barrett (WI)	Hamilton	Pickett
Becerra	Hastings (FL)	Reyes
Berry	Houghton	Roybal-Allard
Brown (CA)	Johnson (CT)	Sabo
Campbell	Kilpatrick	Salmon
Clayton	Kolbe	Sanchez
Conyers	LaFalce	Sawyer
Crane	Lee	Serrano
Dicks	Lewis (GA)	Skaggs
Dixon	Lofgren	Smith, Adam
Dooley	Manzullo	Tauscher
Dreier	Matsui	Thomas
Ehlers	McCarthy (MO)	Waters
Eshoo	McDermott	Watt (NC)
Farr	Moran (VA)	Wexler
Fattah	Obey	Yates

NOT VOTING—14

Bass	Ewing	Owens
Bateman	Gonzalez	Souder
Carson	Harman	Spratt
Clay	Kasich	Stabenow
Cox	Meeks (NY)	

□ 1457

Mr. DOOLEY of California changed his vote from ''aye'' to ''no.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 1 printed in Part B of House Report 105–544.

AMENDMENT NO. 1 OFFERED BY MRS. LOWEY

Mrs. LOWEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows.

Part B amendment No. 1 offered by Mrs. LOWEY:

At the end of subtitle A of title VII (page 189, after line 5) insert the following new section:

SEC. 705. RESTORATION OF POLICY AFFORDING ACCESS TO CERTAIN HEALTH CARE PROCEDURES FOR FEMALE MEMBERS OF THE ARMED FORCES AND DEPENDENTS AT DEPARTMENT OF DEFENSE FACILITIES OVERSEAS.

Section 1093 of title 10 United States Code, is amended—

(1) in subsection (a), by striking out ''(a) RESTRICTION ON USE OF FUNDS.—''; and

(2) by striking out subsection (b).

The CHAIRMAN. Pursuant to House Resolution 441, the gentlewoman from New York (Mrs. LOWEY) and a Member opposed each will control 20 minutes.

Mr. BUYER. Mr. Chairman, I rise in opposition to the amendment and claim the time.

The CHAIRMAN. The gentleman from Indiana (Mr. BUYER) will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from New York (Mrs. LOWEY).

□ 1500

Mrs. LOWEY. Mr. Chairman, I yield myself such time as I may consume.

The gentlewoman from Maryland (Mrs. MORELLA) and I are pleased to offer an amendment today on behalf of the gentlewoman from California (Ms. HARMAN), who unfortunately cannot be here. The Lowey-Harman-Morella amendment would give military women access to the health care they need and deserve.

Our amendment will repeal a provision of law which prevents servicewomen and female dependents of servicemen from using their own funds to obtain legal abortion services in military hospitals. Women who volunteer to serve in the Armed Forces already give up many freedoms and risk their lives in defending our country. They should not also have to sacrifice their health, their safety and their basic constitutional rights to a policy with no valid military purpose.

I want to make sure that every Member of Congress knows that the Department of Defense itself is opposed to the current policy. Our amendment is first and foremost about protecting women's health. Local facilities and foreign nations are often not equipped to perform abortions safely and medical safety and medical standards are often far lower than those in the United States.

A woman forced to seek an abortion at local facilities or forced to wait to travel to acquire safe abortion services faces tremendous health risks. Do we really want American servicewomen overseas seeking back-alley abortions on their own in a foreign country?

This amendment does not allow taxpayer-funded abortions at military hospitals, nor does it compel any doctor who opposes abortion to perform an abortion. The amendment merely reinstates the policy that was in effect from 1973 to 1988, and again from 1993 to 1996, giving women in the military who are stationed overseas the same rights as military women in their own country: the right to purchase a safe and legal abortion with their own private money.

Servicewomen and military dependents stationed abroad do not expect special treatment, only the right to receive the same services guaranteed to American women under Roe v. Wade. This bill penalizes women who have volunteered to serve their country by prohibiting them from exercising their constitutionally protected right to choose.

I urge my colleagues, consider the irony of the United States military, the greatest and most powerful in the world, denying overseas servicewomen and servicemen and their families the rights and freedoms we are so justifiably proud of at home.

I urge support for the Lowey-Harman-Morella amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. BUYER. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, over the past three decades, the availability of abortion services at military medical facilities has been the subject of numerous changes and interpretations over the years. In January of 1993, President Clinton signed an executive order directing the Department of Defense to permit privately funded abortions be performed in military treatment facilities.

The changes ordered by the President, however, did not have the effect of greatly increasing access to abortion services. Few abortions were performed at military treatment facilities overseas for two principle reasons:

First, the United States military follows the prevailing laws and rules of foreign countries regarding abortions and, secondly, the military had a difficult time finding health care professionals in uniform willing to perform the abortions.

The current law is consistent with the Hyde language. It allows military women and dependents to receive abortions in military treatment facilities in cases of rape, incest or when necessary to save the life of the mother.

This is the same policy that has been in effect from June 1988, until President Clinton signed the executive order. The House has voted several times to ban abortions at overseas military hospitals. Last year this amendment was offered and defeated at full committee markup and during floor consideration.

In 1996, between the defense authorization bill and the defense appropriations bill, this House voted 8 times in favor of the ban on abortions at military treatment facilities. In those overseas areas, where female beneficiaries do not have access to safe, legal abortions, beneficiaries have the option of using space-available travel for returning to the United States or traveling to another overseas location for the purpose of obtaining an abortion.

Mr. Chairman, I reserve the balance of my time.

Mrs. LOWEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Chairman, I thank the gentlewoman for yielding me the time.

This amendment does not fund abortions with tax dollars. Let us get that very clear. Tax dollars under current law may not pay for abortions. Tax dollars under this amendment will not pay for abortions. This amendment merely assures that soldiers, sailors, Marines do not become second class citizens when they don the uniform of our great Nation to defend freedom.

This amendment merely assures that our servicemen and servicewomen and their spouses do not have less freedom than the people they defend. All this amendment guarantees is that a servicewoman or a serviceman's wife has the same right any other American woman has to terminate a pregnancy in, for example, the first trimester, in a safe, clean health care facility. Any serviceman's wife or servicewoman who would want to would have to pay for the procedure themselves. This does not provide tax dollars for the procedure. In fact, this amendment only does three things:

It provides equal rights to our military servicemen and servicewomen to legal medical care. It provides equal protection against care in substandard hospitals by substandard physicians. And thirdly, it provides equal protection under the law. Remember, the way the current policy is written, if you are a colonel, a major, and you are well paid, yes, you can fly back to the States to have care. If you are an enlisted man, frankly, you cannot. So this prevents discrimination on an economic basis and merely guarantees to servicemen's wives and to servicewomen exactly the same rights to access to medical care that all other Americans enjoy.

Mr. BUYER. Mr. Chairman, I yield myself 15 seconds to respond and say that space-available travel is at no cost to the service member so there is no discrimination between rank of officers and enlisted.

Mrs. JOHNSON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. BUYER. I yield to the gentlewoman from Connecticut.

Mrs. JOHNSON of Connecticut. Remember, space available, I have a lot of family in the military, is hard to get, and there is timeliness involved in this issue.

Mr. BUYER. Mr. Chairman, reclaiming my time, there is no difference in treatment between the officer corps and the NCO corps, the enlisted corps on this measure.

Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Chairman, I thank the gentleman for yielding me the time.

I rise again in opposition to this amendment. We have debated this amendment now every year since I was first elected to the Congress. Prior to coming to the Congress, I was a practicing physician in Florida and, prior to going into private practice, I spent 6 years in the U.S. Army Medical Corps. Indeed, I was in the medical corps when this policy was first established under the Reagan administration. I can tell my colleagues that the policy was well received by the people within the medical corps, the men and women.

The reason it was so well received is the same reason that it is very controversial here. There are lots of Members who feel that killing the unborn child in the womb is morally wrong and that we should not be doing that. To use a military treatment facility and to ask our men and women in uniform, many of whom have very, very strong objections to this procedure, they do not consider it a medical procedure, they consider it killing, is just wrong.

I can tell my colleagues that when I was on active duty, when this ban went into effect, it was very, very well received by the nurses, by the physicians. They did not like doing it, and today, still, they do not like doing it. I would encourage all of my colleagues to vote no on this amendment. Those who would claim that no taxpayer dollars are being used, I disagree with that. They are using the facility. They are using the materials. They are using the infrastructure, the electricity that is there. I say, do not use in any way tax dollars for this kind of purpose.

The reason people do not like this is the same reason they could not find any doctors to do it in the first place, and that is because it is ending a human life. People will try to dehumanize this whole procedure and call it something else, but in reality it is taking a living human being in the womb and abruptly ending its life. I think it is wrong, and I urge all my colleagues to vote no on this.

Mrs. LOWEY. Mr. Chairman, I yield myself 15 seconds just to remark to the gentleman that the military does have a conscience clause. No doctor has to perform this procedure if it is against their own views.

Mr. Chairman, I yield 1 minute to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Chairman, I rise in strong support of the Lowey-Harman-Morella amendment.

This amendment is simply about restoring the basic rights that have been denied to women simply because they serve in the military. Every woman in America has a constitutional right to reproductive choice. Yet the anti-choice movement in Congress has been relentless to overturn this constitutional right.

Poor women, women who live in the Nation's capital, women in the military are just the first victims of a deliberate attempt to outlaw access to comprehensive reproductive services to all American women. This amendment ensures that women in the military can exercise the same rights that all women of America were guaranteed 25 years ago.

The amendment does not require the Department of Defense to pay for abortions. It simply allows military women to seek and pay for a full range of health care services. If that includes electricity, I am sure they can pay for the electricity as well.

If this amendment fails, Congress will jeopardize the health of all women who serve in the military overseas. I urge my colleagues to think about the message they are sending and to vote aye on this amendment.

Mr. BUYER. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. BARTLETT).

Mr. BARTLETT of Maryland. Mr. Chairman, for many years before it was law, no abortions were done in our military hospitals. The reason was that military doctors will not do abortions. The present policy and its law is that if the life of the mother is at risk, those abortions are permitted. As a matter of fact, they are fully funded. In cases of rape and incest, the abortion is permitted.

When American people are polled, fully 80 percent of them oppose abortion for birth control. If you exclude life of the mother, rape and incest, essentially all that remains is abortion for birth control. A lot has been said about the health of the mother. Killing babies when the mother's life is not at risk is not a woman's health issue.

Let me close by saying that you do not have a right to do what is wrong, and killing the preborn baby is wrong.

Mrs. LOWEY. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentlewoman from New York for yielding me the time.

I would simply say that, here we go again, on an argument that argues against the law of the land. Our military personnel deserve to be under the

law of the land. So all we are simply asking is that the laws of this land regarding choice and the right to an abortion be applied to the women in the United States military. Prohibiting women from using their own funds to obtain abortion services at overseas military facilities actually endangers the woman's health. Women stationed overseas depend on their base hospitals for medical care and are often situated in areas where local facilities are inadequate or unavailable. This policy may cause a woman facing a crisis pregnancy to seek out an illegal and potentially unsafe abortion.

The issue of as space available, I think it is very well known that even in circumstances of a death at home it becomes very difficult for our servicemen and women sometimes to be able to get back home. Certainly space available is going to argue against a crisis situation when there is the necessity to protect the life and health of the mother. We need to comply with the law of the land for all of our U.S. military women. Let us be fair and treat them as they should be.

I strongly support amendment No. 45 which will restore regulations permitting abortions for service members and their dependents at overseas Defense Department Medical facilities.

Without this amendment women who have volunteered to serve their country will continue to be discriminated against by prohibiting them from exercising their legally protected right to choose abortion simply because they are stationed overseas.

While the Department of Defense policy respects the laws of host nations regarding abortions, service women stationed overseas should be entitled to the same services as do women stationed in the U.S.

Prohibiting women from using their own funds to obtain abortion services at overseas military facilities endangers women's health. Women stationed overseas depend on their base hospitals for medical care, and are often situated in areas where local facilities are inadequate or unavailable. This policy may cause a woman facing a crisis pregnancy to seek out an illegal and potentially unsafe abortion.

Since 1985, the ban on DOD abortions was made permanent by the DOD authorization bill. This amendment does not require the Department of Defense to pay for abortions, it simply repeals the current ban on privately funded abortions at U.S. military facilities overseas. Absolutely no Federal funds will be used for abortion services.

In addition, all three branches of the military have a ''conscience clause'' provision which will permit medical personnel who have moral, religious or ethical objections to abortion or family planning services not to participate in the procedure. These provisions will remain intact as well.

Access to abortion is a crucial right for American women, whether or not they are stationed abroad. This amendment must be supported as women who serve our country must be able to exercise their choice whether or not they are on American soil.

Mr. BUYER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Idaho (Mrs. CHENOWETH).

Mrs. CHENOWETH. Mr. Chairman, I rise in strong opposition to this amendment. Indeed the law of the land was passed on February 10, 1996. It was with regard to this issue. It is entitled the National Defense Authorization Act for Fiscal Year 1996 and was signed into law by President Clinton.

This act contained a provision to prevent DOD medical treatment facilities from being used to perform abortions except where the life of the mother is endangered or in the case of rape or incest. Quite simply, should this amendment be adopted, not only would taxpayer-funded facilities be used to support abortion on demand, but resources would also be used to search for, to hire and to transport new personnel so that abortions could be performed.

□ 1515

Mr. Chairman, this is unacceptable and disturbing. Military treatment centers must remain dedicated to healing and nurturing life. As such, they should not be forced to facilitate the taking of the most innocent human life, the child in the womb.

I urge my colleagues to protect the sanctity of life and vote ''no'' on this amendment.

Mrs. LOWEY. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, I rise today in support of the Lowey-Harman amendment to the defense authorization bill because it is fair and it is right.

Women serving our Nation overseas should have access to constitutionally protected health care procedures. The United States military should provide for all the health needs of all its members. Health needs are health needs.

Women who are proudly serving and protecting the security of our Nation overseas should be able to depend on their base hospitals for all of their medical services. Therefore, women should have access to reproductive health care just as they have access to treatment for the flu.

I urge my colleagues to support this amendment.

Mr. BUYER. Mr. Chairman, I yield myself 1 minute to make a couple of observations.

One is that, in fact, the amendment before us is striking language. So with regard to the last speaker, when he said we only want to provide constitutionally protected abortion access, then what we do is we set forth the scenario of having also late-term abortions. Partial-birth abortions could also then be performed at military treatment facilities. I do not think that is what we want at military treatment facilities.

We also have the scenario where it was argued this would not have anything to do with taxpayer funds. Well, if in fact our problem is we cannot find a military doctor willing to perform an abortion, then are we going to have to contract out to have that abortion performed? And if it is contracted out, who pays for that? So I think we are talking about some taxpayer funding.

Also, I am paying attention to the language here, and I think everyone should. I guess what we are calling abortions here on the House floor, the proponents of this amendment do not want to call it abortion. They call it women's health and comprehensive reproductive health services. But let us call it what it is. This is taking the life of another.

Mrs. LOWEY. Mr. Chairman, I yield 3 minutes to the gentlewoman from Maryland (Mrs. MORELLA), my former co-chair of the Congressional Caucus on Women's Issues.

(Mrs. MORELLA asked and was given permission to revise and extend her remarks.)

Mrs. MORELLA. Mr. Chairman, I thank the gentlewoman for yielding me this time.

I am pleased to be a cosponsor of this amendment offered by my friend, the gentlewoman from New York (Mrs. LOWEY) and also the gentlewoman from California (Ms. HARMAN). As we know, this amendment is simply going to give our U.S. servicewomen stationed overseas access to the Department of Defense health facilities by repealing a provision of law which bars them from using their own funds, and I emphasize that, to obtain legal abortion services in military hospitals.

Base hospitals are sometimes the only facilities for medical care, and in countries like Bosnia, usually there is no other resort because local health facilities are frequently inadequate. They just do not meet our standards of health. And so, without having the amendment that we offer, in order to resolve the problem of not having adequate medical facilities, illegal procedures perhaps might be the result of it, or unsafe operations.

And abortion is a constitutional right. We ask many sacrifices of our service people. Let us not compel them to sacrifice basic health rights, the rights of privacy and the constitutional rights that others do have.

Also, this amendment is about fairness. Our servicewomen and military dependents stationed abroad are not asking for any special treatment, they are only asking for the ability to have the very same rights that all Americans have under the Constitution.

And, also, there is a matter of looking economically at it. Yes, there might be those who say, well, members can go home for those services. Well, maybe those who are highly paid can, but there are a certain group of officers who have served us so very well, where the expense would be prohibitive and so, therefore, they are stuck. So there is an economic inequity in that.

I want to reiterate that we are not asking that every doctor perform the abortion, even though it is constitutional. We are not asking for taxpayers to fund it at military hospitals. Any doctor who opposes it on principle or a

matter of conscience would not have to perform the abortion, even if it is legal.

And this does not mean that we have the expense of having to pay for it at another facility. The amendment merely reinstates the policy that was in effect from 1973 until 1988 and then it was again in effect from 1993 to 1996.

Let me finally just point out the strong support from health care providers, those groups that know and do work with health care organizations like the American Nurses Association, the American Public Health Association, the American Medical Women's Association, the American College of Obstetricians and Gynecologists, Planned Parenthood Federation of America. Those among many others have expressed their strong support for this amendment.

It is also supported by the Department of Defense, I would like to emphasize. So I hope that Members would join us in supporting this amendment.

Mr. BUYER. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. CUNNINGHAM), a member of the committee.

Mr. CUNNINGHAM. Mr. Chairman, I spent 20 years in the military and not once, not one time did I ever see a woman's right to choose denied. If there was a need for that individual to come back and do it and get the procedure, they were allowed. Whether we are for or against abortion, it should not be in this body, and that includes funding for it.

But in the military, if a woman is overseas and they are in a unit, they are in a combat backup unit, they do not want somebody there that has gone through an abortion. They want them out of the country. They want them out of that unit until they can recover and then come back.

I have heard that it denies the basic rights. It does not. The statute says that they have the right, especially in the case of rape, incest or life of the mother. And any other case, the military will bring them back.

Those folks that are for this very amendment are the same folks that are cutting defense and cutting defense and cutting defense. In the case of the gentlewoman from California (Ms. HARMAN), her biggest contributor is Loral, the one that sold the technology to the Chinese. If my colleagues want to worry about men and women in the military, then take care of the military and quit bringing these kinds of amendments up.

Mrs. LOWEY. Mr. Chairman, I yield 2½ minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Chairman, I thank the gentlewoman from New York for yielding me this time and congratulate her on this important amendment. I rise in strong support of the Lowey-Harman amendment.

Do we hear what we are saying in this debate to the women of our armed services? Make the choice to serve your country in the armed services of the United States and lose your choice over your own body. Join the armed services, sisters, and lose your constitutional rights.

All the red herrings in the world will not make this palatable to young women in this country today. The notion about whether their own money or taxpayers' money is involved, for example. Women would agree to paying the full cost, including the electricity, for the Member who was concerned there. Include the full cost of the abortion. The gentleman wants to know about contracting out. The last time I heard, we contract out for the full cost of the service.

Show some respect for women serving their country. Imagine the position we put them in in Haiti or in Bosnia, having to find a safe place for an abortion. Suppose it is a crisis pregnancy but not one resulting from rape or incest. Why would any Member of this body want to put any woman serving in the armed forces at risk? Why? Why even would we want to put her at any inconvenience? She has signed up to serve her country. I think she deserves all the respect we can muster.

And let me be clear. The armed services today needs its women more than its men, because it is the women whose percentages are rising. It is the percentage of men that is going down. Women are indispensable in the armed services today. They are very young; they may have a different life-style from many Members of this body, but we had better understand this: the services will have to close up shop without them.

This is the wrong message at the wrong time to send to the young women the services are trying to recruit today. The women's numbers are going up. They are at 14 percent. In 1990 they were at 11 percent. They keep rising. They are the cream of the crop. They are listening to this debate, and I believe I speak for them and for the women now serving when I say eliminate discrimination against women in the armed forces, stand with the women serving their country.

Mr. BUYER. Mr. Chairman, I yield myself 1 minute to respond.

This is not a question of those in the military versus women who serve in the military, and I think that is an insulting argument for anybody to use and it is a red herring in this argument.

If my colleague wants to talk about respect, I have respect for the sanctity of human life. That is what this is about. My colleague is a little uncomfortable about that, is she not? That is what this is about. It is about human life.

Think about our military. The purpose we have in the military is to protect our freedoms and our liberties, and when that is laid out in the Constitution, we believe, we, those of us who believe in the sanctity of life, believe, and I am just as happy that the gentlewoman's parents decided to have her, just as I am glad my parents decided to have me, and I am appalled that someone would come to the floor and say this is something about women's rights.

Ms. NORTON. Mr. Chairman, will the gentleman yield?

Mr. BUYER. I yield to the gentlewoman from the District of Columbia.

Ms. NORTON. Mr. Chairman, the gentleman is appalled because the message strikes home. The gentleman is appalled because this Member is calling for respect. And as the gentleman respects human life on his set of values, there are no set of values on which the gentleman should not be respectful of women in the armed forces.

Mr. BUYER. Mr. Chairman, I reclaim my time to say I respect human life, yes, on my set of values, on the set of values that is the proponent of life as opposed to killing a human being.

Mrs. LOWEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Chairman, I thank the gentlewoman for yielding me this time, and I rise in support of the Lowey-Harman-Morella amendment.

DACOWITS, the Defense Advisory Committee on Women in the Services, found that women soldiers had difficulty getting access to medical care overseas, particularly in the Pacific. This unequal ban exacerbates this problem.

Last time I checked, an American woman still had the right to choose, that is if she is living in the United States. When she decides to defend our country, she loses that constitutional right. When a female soldier is defending the rights and privileges of this country, she is denied some of the same rights and privileges.

If a male member of the armed services needs medical attention overseas, he receives the best. If a female member of the armed services needs a specific medical procedure, she is forced to either wait until she can travel to the United States, at extreme inconvenience and expense, or go to a foreign hospital which may be unsanitary and dangerous.

This bill will cost the American taxpayer absolutely nothing. Each woman will pick up her own tab. All she wants is the constitutional right that she has in this country to also be provided when she is serving overseas in American bases; to be able to go to American hospitals and receive the same rights.

□ 1530

Women have waited long enough to receive equal treatment in the military. I hope that my colleagues on both sides of the aisle will vote for this amendment and give these most-deserving soldiers back what is rightfully theirs.

I might add, only in a Republican Congress would constitutional rights that are given to our citizens over here

be denied to them when they are overseas defending probably many men that did not even serve in the military.

Mr. BUYER. Mr. Chairman, I yield myself 15 seconds to respond.

I believe the remarks of the gentlewoman from New York (Mrs. MALONEY) are probably very insulting to conservative Democrats.

Mrs. LOWEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DeLAURO. Mr. Chairman, I rise in strong support of the Lowey-Harman amendment.

This amendment restores, this is essentially what it does, it restores equal access to safe medical treatment for U.S. military servicewomen, military dependents who are stationed overseas. It reinstates a policy that would allow these women to use their own private funds to obtain a legal abortion or abortion services in military hospitals overseas. Women who joined the military to protect our rights should not have to check their constitutional rights at the border.

Let me emphasize several points about the amendment. First, the amendment would not allow Federal funds to be used to pay for abortions. It simply allows women to use their own funds. It is worth repeating because we can never say it often enough, it does not get understood. Their own funds. Women use their own funds to pay for services in military hospitals overseas.

Second, the amendment would not force doctors to perform abortions due to the conscience clause that exists in the military services. No medical personnel would be forced to participate in or perform these services.

Third, this in not a new policy. Privately funded abortions were allowed overseas at military facilities from 1973 to 1988, including all but a few months of the Reagan administration. And then they were permitted again under an executive order between 1993 and 1996.

The current ban is an exception. It is not the rule. The ban is a direct attack on the rights of American women who valiantly served their country. They put their lives on the line every single day.

I urge my colleagues to please ensure that female military personnel and military dependents have access to safe and legal medical care that the men in our Armed Forces do and which they deserve. Vote ''yes'' on the Lowey-Harman amendment.

Mr. BUYER. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. PAPPAS).

Mr. PAPPAS. Mr. Chairman, I thank the gentleman from Indiana for yielding me the time.

Mr. Chairman, we are again embarking on another battle to export America's disrespect for the value of human life. Not only do we kill our unborn children here, we are going to vote today to allow abortions, yes, even partial birth abortions in our medical facilities overseas.

I do not think our defense hospitals, needed to treat our war fighters, should be turned into abortion clinics. When the 1993 policy permitting abortions was first promulgated, all military physicians, as well as many nurses and supporting personnel, refused to perform or assist in elective abortions. In response, the Clinton administration sought to hire a civilian doctor to conduct abortions.

Therefore, if the Harman amendment were adopted, not only would taxpayer funded facilities be used to support abortion on demand, but resources would be used to search for, hire, and transport new personnel simply so that abortions could be performed.

Rather, let us use this defense budget to make our military stronger and not use it to help us establish abortion clinics. Military treatment centers, which are dedicated to healing and nurturing human life, should not be forced to facilitate the taking of the most innocent human life, the child in the womb.

I urge my colleagues to maintain the current law and vote against this amendment.

Mr. Chairman, I include for the RECORD a copy of the letter from the Archbishop for Military Services, Edwin F. O'Brien, sent to Members of Congress:

ARCHDIOCESE FOR THE
MILITARY SERVICES, USA,
Washington, DC, May 20, 1998.

DEAR MEMBER OF CONGRESS: As one concerned with the moral well being of our Armed Services I write to urge you to oppose the Harman Amendment to the FY 99 National Defense Authorization Act (H.R. 3616).

This amendment would compel taxpayer funded military hospitals and personnel to provide elective abortions and seeks to equate abortion with ordinary health care.

The life-destroying act of abortion is radically different from other medical procedures. Military medical personnel themselves have refused to take part of this procedure or even to work where it takes place. Military hospitals have an outstanding record of saving life, even in the most challenging times and conditions.

Please do not place this very heavy burden upon our wonderful men and women of America's Armed Services.

Thank you for your kind consideration of this message.

Sincerely,

EDWIN F. O'BRIEN,
Archibishop for the Military Services.

Mrs. LOWEY. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. SANCHEZ).

Ms. SANCHEZ. Mr. Chairman, this amendment would give U.S. servicewomen stationed overseas access to Department of Defense health facilities by repealing a provision of the law which bars these women from using their own funds to obtain medical treatment in military hospitals.

Women serving in the military overseas depend on these base hospitals for medical care and they may be stationed in areas where local health care facilities are inadequate. The ban may cause a woman who needs medical care to delay treatment while she looks for a safe provider, or it may force a woman to seek an illegal, unsafe procedure locally.

Women who volunteer to serve in our Armed Forces already give up many freedoms and risk their lives to defend our country. They should not have to sacrifice their privacy, their health, or their basic constitutional rights to a policy with no valid military purpose.

This amendment is about women's health. Local facilities in foreign nations are often not equipped to handle a procedure, and medical standards may be far lower than those in the United States. We are putting our own defenders at risk by forcing them to seek local facilities from medical procedures.

This amendment is also supported by the Department of Defense.

Mr. BUYER. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Chairman, I thank my good friend the gentleman from Indiana (Mr. BUYER) for yielding and for his excellent work on this and other provisions in this important bill.

Mr. Chairman, the national debate on partial birth abortion has proven beyond any reasonable doubt that abortion is violence against children. Most Americans and I believe most Members of Congress on both sides of the aisle, Democrats, Republican, liberals, conservatives and moderates, were shocked and dismayed and frankly very saddened to learn that partial birth abortions were routine and commonplace and that it was completely legal to partially deliver a baby, shove a scissors into the back of that baby's head, and then hook up a hose to suction out that baby's brain. That is the reality of what choice is all about.

I think it is about time, Mr. Chairman, we connected the dots about the violence of abortion. The other methods are no less heinous. They kill children. They are no less violent. This is child abuse. And that collective denial that we as a country have engaged in for so many years needs to be put away.

Mr. Chairman, abortion methods dismember children. Razor blade tipped suction devices 20 to 30 times more powerful than the average household vacuum cleaner, after the child's arms and legs and torso and head has been decapitated, turn on the suction machine and the baby is literally turned into a bloody pulp. This is the uncensored reality of what choice is all about. Abortion methods also include injecting various deadly poisons, including high concentrated salt solutions.

I chair the Committee on International Operations on Human Rights, Mr. Chairman. I have had in excess of 70 hearings, many of them on torture in overseas prisons by dictatorships. And I can tell my colleagues, when I look at the badly burned, chemically burned bodies of unborn children who

have been killed with salioamniocentesis abortions, they are no different at all to those others who have been tortured because of their faith, or because of their beliefs in democracy or their human rights advocacy.

They have been killed. A high concentrated salt injection usually takes 2 hours for the baby to die. And we know that a child feels pain. And when that child is born dead, if we open up the fist that is usually tightly collapsed, we can see that all the scalding and corrosive effects of that salt fails to get on the palm because the child is in pain. That is the reality, Mr. Chairman, of this so-called choice rhetoric.

The Lowey amendment if enacted, Mr. Chairman, will turn DOD medical facilities into abortion mills where this kind of violence, including, as my good friend the gentleman from Indiana (Mr. BUYER) pointed out earlier, where this kind of violence, including partial birth, would be sanctioned.

The Lowey amendment makes a false distinction based not on what happens to a baby in an abortion, in other words a violent death, but on who provides some of the cash. It also completely overlooks the costs that are borne by the taxpayers to facilitate that abortion, like the provision of operating rooms, the hiring of abortionists.

Thank God that when Mr. Clinton's executive order was in effect not a single overseas military doctor would engage in this violence against children. They have had to go out with Planned Parenthood's help and look and seek to find abortionists. Well, that takes taxpayers' dollars. The nominal fee that a woman might pay to procure that abortion would in no way cover that.

This amendment, Mr. Chairman, says in effect, it is okay to tear up an unborn child, to rip that child to pieces. Mr. Chairman, I have been in the prolife movement for 26 years. I am amazed at how so many good and decent people sanitize the unthinkable. We did it on this floor when we talked about partial birth, Members that I deeply respect and work arm in arm on human rights with.

Let me conclude, Mr. Chairman, and let me say that good and decent people have defended the unthinkable, that which is not defensible, in terms of partial births in these other methods. And now we are being called upon to use overseas military facilities for abortion. It facilitates abortion.

One of our colleagues said earlier that we do not want to treat women as second-class citizens. Nobody does. But providing the means to kill their babies, we would welcome the unborn being treated as second-class citizens.

Unfortunately, this amendment and our zeitgeist, our law decreed by the U.S. Supreme Court in 1973, treats the unborn child as a throwaway, as garbage, as so much junk. And God did not make junk. And every child is precious regardless of race or color or gender. Every one of those kids should matter. Medicine, Mr. Chairman, is all about caring and curing and mitigating diseases. Unless my colleagues think pregnancy is a disease to be vanquished, those kids should be nurtured. We should be talking about maternal health care, how do we beef that up. Prenatal care, that is what it is about, not simultaneously saying, if we do not want the child, the child could be injected with salt or dismembered.

Vote no on the Lowey amendment.

Mrs. LOWEY. Mr. Chairman, I yield 1 minute to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Chairman, I thank the gentlewoman for yielding to me.

I want to say, it is really unbelievable to me that we are really on this floor discussing this issue. This is not an issue of Row v. Wade. That issue has been decided.

Women in this country have a constitutional right to have a safe, legal abortion. This country made a decision to do that because it did not like the public health impacts of having abortion illegal. Like it or not, women were being killed in back-alley abortions; and the fact is we changed the law and the Constitution of the United States reflects that a woman has a right to a legal, safe abortion so her health is not in jeopardy. That is a public health issue.

Now what we are talking about is, these Constitutional rights are not selective. We cannot just say, ''I want free speech just in Rhode Island and I do not want free speech in California. I want free speech here and not there.'' This is a constitutional right that applies to every single American. And for us to say it will not apply to the Americans, our soldiers, our women in uniform who are defending our rights overseas to me is unconscionable.

The story here, Mr. Chairman, is that these are United States servicewomen and their lives are going to be put in jeopardy if we do not pass this amendment and make this bill protect a woman's right to have a legal and safe abortion.

Mr. BUYER. Mr. Chairman, I yield myself 30 seconds just to remind the Members, with regard to national security issues, the Supreme Court permits the Congress of the United States to establish the laws. And in particular, we do set out rules and policies that end up discriminating against people and we have rules and procedures that are unequal when we compare sometimes what we do compared to what happens in the civilian sector.

We get to discriminate whether someone is too tall, overweight, whether they are diabetic. Those discriminations are permitted as we make many different decisions on building unit cohesions. So we get to make these decisions within this body, so I wanted to share that with everyone.

Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. HOSTETTLER), a member of the committee.

☐ 1545

Mr. HOSTETTLER. Mr. Chairman, I rise in strong opposition to this amendment. The Supreme Court has told us that we have to allow the killing of preborn children. It has not, however, told us that government has an obligation to provide this service. This amendment would do just that.

This amendment obligates the United States to make sure abortion services and facilities are available at U.S. military bases. It is this obligation that I believe the Committee on National Security and the House soundly rejected in recent years on so many occasions and should again reject.

Abortion remains a very divisive practice in America and, indeed, the world. Allowing abortions to be performed on military installations would bring that discord and dissension right onto our military bases complete with pickets and the like.

The core principle at issue here is whether the government has the obligation to provide for what is merely a right is a serious issue with serious ramifications.

Does the freedom of the press guaranteed by the First Amendment obligate the Federal Government to provide every interested American with a printing press? Does the Federal Government have to provide a U.S. flag and a set of matches to anyone who wants to burn our flag just because the Supreme Court has said that flag burning is a right protected under the First Amendment.

Does the right to distribute pornography, which also has been upheld by the court, obligate the military to distribute it to the troops? And because prostitution is legal in one State, does this obligate that State government to provide prostitution services to its employees? Of course the answer to these absurd questions is a resounding no.

Congress has the clear responsibility under the Constitution to provide for the rules and regulations of the military. We must not make it the policy of the United States to use its military institutions to facilitate destructive behaviors such as killing innocent preborn life. I urge a no vote on this amendment.

Mr. BUYER. Mr. Chairman, as I understand, the gentlewoman from New York (Mrs. LOWEY) has the right to close?

The CHAIRMAN. The gentleman from Indiana (Mr. BUYER) has the right to close.

Mr. BUYER. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Indiana (Mr. BUYER) has ¾ minute remaining, and the gentlewoman from New York (Mrs. LOWEY) has ¾ minute remaining.

Mrs. LOWEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to close by thanking my colleagues on both sides of the aisle who have spoken and supported the Lowey-Harman-Morella amendment.

Let me reiterate, this amendment is not an issue of taxpayer-funded abortions. Under the amendment, the patient, not the government, would pay for the procedure. I close the debate by reminding Members that our American servicewomen take very seriously their duty to protect the constitutional rights of all United States citizens. Yet, we deny them time and time again the rights we extend to women on U.S. soil.

It is time to stop the hypocrisy. The right to choose gives women the right to make this personal decision. Vote for the Lowey-Harman-Morella amendment.

Mr. BUYER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I guess I would share with some of the speakers, the proponents of this amendment, they should bring the amendment to be the proponents for those who are diabetic and fight for the diabetes or fight for someone that is overweight or that is too tall or too short. There are many rules and regulations that are out there that I want to share with the body.

On this issue, we also have the issue of military medical readiness. We train all of our nurses and doctors how to do proper triage for saving of life from the battlefield. One of the things that is not on there is the performing of an abortion service to take life. Mr. Chairman, I urge everyone to oppose the amendment.

Mr. STARK. Mr. Chairman, the Lowey-Harman amendment will restore the ability of our female service members and female dependents stationed overseas to exercise their constitutional right to choose safe abortion services, using their own funds to obtain services in military hospitals.

This is an important access-to-health-care amendment. Military women depend on their base hospitals for all of their medical services. This amendment gives them access to the same range and quality of health care that they could obtain in the United States.

This amendment has the strong support of organizations like the American Nurses Association, the American Public Health Association, the American Women's Association, the American College of Obstetricians and Gynecologists, and the Planned Parenthood Federation of America.

This amendment also has the support of the Department of Defense. No surprise here, as the policy of denying women access to safe health care serves no military purpose.

Still, anti-choice Members of Congress would endanger the lives of women in foreign countries where local health care facilities are inadequate—where quality care is not available. They would force women into the hands of untrained medical professionals, or into unsterilized facilities—increasing the danger and the risk to the health of these women.

Make no mistake about it—their objective is the same as always: to make abortion services difficult to obtain, prohibitively expensive, and physically risky for physicians and women alike.

True to form, the conservative majority have extended their reach to discriminate against women who have volunteered to serve their country by prohibiting them from exercising their legally protected right to choose.

Women serving this country have lost a legal right. Vote for the Lowey-Harman amendment to end this blatant disregard for the health, safety and constitutional rights of women.

Ms. PELOSI. Mr. Chairman, I rise in strong support of the Lowey-Harman amendment to repeal the provision in this bill prohibiting privately funded abortion services in U.S. military hospitals overseas. I commend my colleagues for their leadership on this important issue.

Women stationed overseas in service to their country and female military dependents rely on base hospitals for medical care. Access to comprehensive reproductive health is essential for all women, civilian or military. Under the bill, as it currently stands, however, these women who volunteer to protect and serve their country in the military are denied the same protections under Roe v. Wade as the Americans they are serving and protecting. This is not a request for special treatment—it is a need for equal treatment and equal access to health care.

This amendment does not permit taxpayer-funded abortions. No Federal funds are used for abortion—that will not change. It simply repeals the current ban on privately funded abortions in military hospitals and restores equal access to reproductive health care for military women stationed overseas. And it preserves the conscience clause and would not coerce any doctor to perform abortions. It provides military women the right they already have as American women—to make a safe and legal choice with their own funds. I urge my colleagues to repeal this unfair ban and vote yes on the Lowey-Harman amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Mrs. LOWEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mrs. LOWEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 441, further proceedings on the amendment offered by the gentlewoman from New York (Mrs. LOWEY) will be postponed.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in part B of House Report 105–544.

AMENDMENT NO. 2 OFFERED BY MR. GILMAN

Mr. GILMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B, amendment No. 2 offered by Mr. GILMAN:

At the end of title XII (page 253, after line 3), insert the following new section:

SEC. 1206. PROHIBITION ON RESTRICTION OF ARMED FORCES UNDER KYOTO PROTOCOL TO THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE.

(a) IN GENERAL.—Notwithstanding any other provision of law, no provision of the Kyoto Protocol to the United Nations Framework Convention on Climate Change, or any regulation issued pursuant to such protocol, shall restrict the procurement, training, or operation and maintenance of the United States Armed Forces.

(b) WAIVER.—A provision of law may not be construed as modifying or superseding the provisions of subsection (a) unless that provision of law—

(1) specifically refers to this section; and

(2) specifically states that such provision of law modifies or supersedes the provisions of this section.

The CHAIRMAN. The gentleman from New York (Mr. GILMAN) and a Member opposed each will control 20 minutes.

Mr. SKELTON. Mr. Chairman, since no Member has risen in opposition to this amendment, I ask unanimous consent to be permitted to control the time on this side.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to offer the Gillman-Danner-Spence-Sensenbrenner-Rohrabacher amendment. In short, this amendment will exempt U.S. Armed Forces from the restrictions of the U.N. Kyoto Climate Change Treaty.

Mr. Chairman, last December the Clinton administration approved a U.N. Climate Change Treaty that forces the United States to make drastic cuts in carbon emissions by the year 2010. The economic recesssions of the late 1970s and early 1980s caused our Nation to cut emissions by 2 percent of our total emission. The Kyoto treaty now imposes restrictions three times larger than the cuts made by the recessions in the 1970s.

In sum, U.S. Government laboratories, industry, and labor groups estimate that the treaty is going to cost hundreds of billions of dollars and could throw two million Americans out of work. While the treaty imposes restrictions on our Nation and 38 other countries, it exempts China, Brazil, South Korea, Mexico, India, and 125 other countries from its limitations.

Our Armed Forces are responsible for over 70 percent of the Federal Government's carbon emissions. The Department of Defense recently estimated that a 10 percent cut in its emissions could trigger the following cuts in the readiness of our Armed Forces. For example, armor training would be cut by 328,000 miles per year, naval steaming days could be cut by 2,000 days per year, and Air Force flying hours could be cut by some 210,000 hours.

Prior to Kyoto, the Defense Department requested a blanket waiver from carbon emissions restrictions. During the negotiations, Vice President GORE overrode the Defense Department's position and exempted only multilateral operations consistent with the U.N. charter. That left unilateral U.S. operations, like Panama or Grenada, and all domestic operations subject to the

Kyoto restrictions. Over time, Mr. Chairman, the Kyoto Protocol would exert a strong pressure on future administrations to curtail our military training and readiness.

Recently, Undersecretary of Defense Goodman claimed that Kyoto will not impair or adversely affect military operations and training. This contradicts the direct language of the treaty that only exempts multilateral operations that are consistent with the U.N. charter.

Mr. Chairman, our amendment will lock into law the current administration's verbal promises to protect our Armed Forces from U.N. restrictions. This amendment is necessary because the administration could retract its position on DOD emissions when climate change negotiators meet again this November in Buenos Aires, just after our congressional elections.

The amendment simply states that no provision in the Kyoto Protocol will restrict the procurement, the training, the operation, or maintenance of our U.S. Armed Forces, as just promised by the administration.

Mr. Chairman, this amendment was endorsed by the Veterans of Foreign Wars, the Navy League, and the Air Force Association. I have their letters here and will make them available to our colleagues. I also understand that, since this amendment implements current administration policy, the Department of Defense does not oppose its adoption.

Accordingly, Mr. Chairman, I urge Members to support this amendment. Our national security is much too important to risk on the U.N. treaty and the bureaucracy that would oppose it.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Mississippi (Mr. TAYLOR) is recognized.

Mr. TAYLOR of Mississippi. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to compliment the gentleman on his amendment. I know of no opposition to that amendment on this side, and we would also urge its passage.

Mr. GILMAN. Mr. Chairman, I am pleased to yield 5 minutes to the distinguished gentleman from South Carolina (Mr. SPENCE), chairman of the Committee on National Security.

(Mr. SPENCE asked and was given permission to revise and extend his remarks.)

Mr. SPENCE. Mr. Chairman, I rise in strong support of the Gilman amendment that would exempt the United States Armed Forces from the restrictions of the United Nation Kyoto Climate Change Treaty.

My colleagues may be wondering what possible connection an environmental protection treaty has to do with the defense of the United States, and in particular, to the operation of the United States forces worldwide. The Kyoto treaty, if ratified by the Senate or if imposed by executive order or regulation, imposes substantial restrictions on the amount of United States carbon emissions.

In a highly industrialized society, these restrictions will have enormous economic impact. The United States Government laboratories, industry, and labor groups estimate that implementation of the Kyoto Protocol would result in hundreds of billions of dollars in lost economic growth and perhaps two million lost American jobs.

The restrictions called for in the Kyoto Protocol would, if implemented, obviously apply to the Federal Government. Because the operations and training of the United States military forces account for more than 70 percent of the Federal Government's carbon emissions, the impact of the Kyoto treaty on our Armed Forces would be tremendous.

Unless our military is given a blanket waiver from the Kyoto restriction, a waiver that was recommended by the Secretary of Defense, Mr. Cohen, everyday operations and training will be affected.

The Pentagon estimates, as the gentleman from New York (Mr. GILMAN) said, that even a requirement that emissions be reduced by 10 percent would result in tank training being cut by 328,000 miles per year, Naval steaming days being cut by 2,000 days per year, Air Force flying hours being cut to the tune of 210,000 hours per year.

As serious as the Kyoto treaty's restrictions would be on the military's peacetime training, the restrictions would dramatically affect the conduct of United States military operations.

The Pentagon estimates that the Kyoto treaty's restrictions would degrade the readiness of Army divisions and could add an additional 6 weeks to training and deployment in the event of war.

As a result, strategic deployment schedules would be missed and operations placed at risk. Should Saddam Hussein continue to threaten the stability of the Persian Gulf, the ability of the United States to operate military forces would be governed, and limited, by the provisions of the United Nations environmental treaty.

Ironically, the administration did agree to include one exemption in the Kyoto treaty for ''multilateral operations consistent with the U.N. charter.''

In other words, the administration believes U.N. peacekeeping operations like Bosnia and Somalia should be exempt from environmental treaties while unilateral American operations like the invasion of Grenada in 1983 or Panama in 1989 would have to be conducted, if at all, in an environmentally friendly fashion, as dictated by the United Nations.

As nonsensical as this may sound, it is an accurate assessment of the implications of the administration's posture on the Kyoto treaty. As I indicated, prior to the Kyoto environmental summit, the Department of Defense requested a blanket waiver from restrictions on carbon emission, but Vice President GORE apparently overrode the Department's request.

Although protecting the environment is something we all strive for and, as a Nation, need to improve on, we cannot afford for it to be a primary focus of our military's combat training or of their conduct of operations. Their job is to protect America, its citizens, and its security interest by operating around the globe in peacetime and prevailing during war.

War is a hard and violent business, and the effectiveness of the weapons is not measured by the level of carbon emissions. The 70-ton M1–A1 tank is the world's best, but it consumes a lot of gas. It measured its progress down the Euphrates River Valley in the Gulf War in gallons per mile, not miles per gallon. While the M1–A1 may not be environmentally friendly, it helped to decimate the Iraqi Republican Guard, shorten the war, and, in so doing, limit the loss of life.

In conclusion, let me cite the words of former Secretary of Defense Frank Carlucci, who wrote recently ''Regardless of how the administration interprets the treaty, the Congress must demand a blanket exemption for all military operations.''

That is what the Gilman amendment proposes, and I strongly urge my colleagues to support it. As Carlucci said ''Our national security deserve no less.''

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Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the gentlewoman from Missouri (Ms. DANNER).

Ms. DANNER. Mr. Chairman, I am pleased to be a sponsor of the Gilman-Danner-Spence-Sensenbrenner-Rohrabacher amendment. Numerous studies have shown that the Kyoto Protocol will not only harm the U.S. economy, but, in addition, it has the potential to threaten America's military preparedness.

Defense Secretary William Cohen has been quite clear with regard to the devastating effects Kyoto will have on American national security, stating in a recent article in the Washington Times: ''We must not sacrifice our national security to achieve reductions in greenhouse gas emissions.''

Basically, the treaty forces United States armed services to reduce greenhouse gas emissions while exempting ''multinational operations consistent with the United Nations charter.''

Our domestic military training will be damaged by the decisions made in Kyoto by subjecting our military to restrictions that the treaty does not impose upon countries such as China, India and Mexico, countries that we know have high levels of emissions. I think this is completely inequitable. Indeed, growing military powers such as China will not be required to adhere to the same standards to which our military will be held.

Reducing Army fuel use by 10 percent alone would downgrade readiness and require up to six additional weeks to prepare and deploy our troops, according to our Pentagon officials. Since the United States armed forces produce over 70 percent of the Federal Government's energy use, you may be very certain that it will be the United States military that will be the most seriously affected as an aspect of our government if subjected to the Kyoto requirements. The Kyoto Protocol must not stand as a barrier to necessary United States military operations.

Furthermore, decisions that impact our armed forces should be made by our commanders, our generals and our admirals, and not be subject to an international environmental accord drafted by international bureaucrats.

Mr. Chairman, this amendment represents an opportunity to protect America's national security and hold the administration to its word, as it was presented to us before the Committee on International Relations just recently. Therefore, I urge all Members to support it.

Mr. GILMAN. Mr. Chairman, I am pleased to yield 5 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER), the distinguished chairman of the Committee on Science who also was the Chair of our delegation to the Kyoto conference.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman from New York for yielding me this time, and rise in support of this common sense amendment to prohibit any provision of law, any provision of the Kyoto Protocol, or any regulation issued pursuant to the protocol, from restricting the procurement, training or operation and maintenance of the United States armed forces.

As chairman of the Committee on Science, I spent a great deal of time analyzing this protocol, the U.N. treaty on climate change, including chairing three full Committee on Science hearings on the outcome and implication of the Kyoto climate change negotiations, and this past December I led the congressional delegation to the Kyoto conference.

Facts I have reviewed lead me to believe that the Kyoto Protocol is seriously flawed; so flawed, in fact, that it cannot be salvaged. The treaty is based upon science, costs too much, leaves too many procedural questions unanswered, is grossly unfair because developing nations such as China, India, Brazil and Mexico are not required to participate, and will do nothing to solve the speculative problem it is intended to solve. I have heard nothing today to persuade me otherwise.

The amendment addresses one of the protocol's many absurdities that the Clinton-Gore administration agreed to in Kyoto, namely the threat to our national security. Under the Protocol, the administration has committed the United States to reduce its greenhouse gas emissions by 7 percent below 1990 levels in the 2008 to 2012 time frame, or about the level that we were emitting 20 years ago in 1978.

Since the Federal Government is the Nation's largest energy user and greenhouse gas emitter, and the Department of Defense is the government's largest emitter, the administration essentially agreed to impose restrictions upon military operations, in spite of Pentagon analyses that showed that such restrictions would not only significantly downgrade the operational readiness of our armed forces, but also threaten their ability to meet the requirements of our national military strategy.

The text of the Kyoto Protocol is silent with respect to greenhouse gas emissions. However, the decision taken by the Framework Convention of the Climate Change's Conference of Parties exempts military operations ''pursuant to the United Nations charter,'' but requires ''that all other operations shall be included in the national emissions totals,'' with the effect of penalizing our armed forces for maintaining world peace.

The administration claims that this decision was one of its great triumphs in Kyoto, but I believe, however, it is one of the many mistakes made by Vice President Gore and his minions that guided the Kyoto negotiations.

As pointed out in a January 22, 1998 letter to the President by the Committee to Preserve American Security and Sovereignty, a concerned group of former U.S. national security and foreign policy officials that includes three past Secretaries of Defense and two past Secretaries of State, ''The Kyoto treaty threatens to limit the exercise of military power by exempting only military exercises that are multinational and humanitarian. Unilateral military actions, as in Grenada, Panama and Libya, will become politically and diplomatically charged.''

It is time too correct this Kyoto absurdity. Support this amendment and say ''yes'' to our national security and ''no'' to Kyoto.

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I might say that I personally favor this amendment. I will not oppose it. It is also my understanding that the administration as well is in favor of it. So I compliment the gentleman from New York for bringing this to our attention.

Mr. Chairman, I yield back the balance of my time.

Mr. GILMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would note that this amendment prevents U.N. Climate Change Treaty restrictions from applying to our United States armed forces. It has been endorsed by our major veterans' groups, the Veterans of Foreign Wars, the Navy League and the Air Force Association. The Department of Defense does not oppose the amendment. It implements current administrative policy to prevent the Kyoto Climate Change Treaty from cutting our national defense.

Mr. Chairman, I urge my colleagues to support the amendment.

Mr. BONILLA. Mr. Chairman, I rise in support of the Gilman Amendment which insures the safety and security of Americans are not compromised to promote questionable scientific theories. The Kyoto Treaty may not succeed in combating the phantom threat of global warming, but it has sinister consequences for our military and our security.

Simply put the Kyoto Treaty will restrict military fuel consumption. This will cut armor training by 328,000 miles per year, cut naval steaming by 2,000 days per year and cut Air Force training by 210,000 hours per year while placing no restriction on the Chinese and other militaries. The Gilman Amendment will stop this onslaught on America's security. The Gilman amendment will safeguard our independence.

My colleagues, let's defend our sovereignty from real foes not phantom threats. Please join me in voting to safeguard our independence and vote for the Gilman Amendment.

Mr. PALLONE. Mr. Chairman, I rise to address this amendment offered by Mr. GILMAN (Prohibition on Restriction of Armed Forces under Kyoto Protocol to the UN Framework Convention on Climate Change). First, I want to clarify whether DoD's technical changes were made to this amendment. Of course I support protection of our national security interests and want to make sure that no provisions of U.S. law enacted to implement U.S. obligations under the Kyoto Protocol would jeopardize our military readiness. However, while I support the principle behind this amendment, this should not be used as an opportunity to undermine the Kyoto Protocol nor U.S. efforts, as one of 160 nations who were involved in negotiating this treaty, to protect our global climate. Undersecretary of State Eisenstat has emphasized repeatedly that the U.S. will not take steps that would require mandatory action at the macroeconomic level or with respect to specific sectors of our economy in order to reach the Kyoto target before the President has obtained the advice and consent of the Senate. Further, Undersecretary Eisenstat consulted with top national security and military officials and had their assurances that the Kyoto Protocol does in fact meet our national security needs and interests. We secured exemptions for bunker fuels and for other activities that are covered under other existing agreements. If this Protocol were ever signed or ratified by the Senate, our domestic legislation would ensure protection of our national interests. Nor would we trade emissions credits with any other nations that with whom we would not otherwise conduct transactions. Thus, I do not understand the purpose of, nor the need for, this amendment.

I also want to clarify that this amendment should not be interpreted to be able to prevent the U.S. Armed Forces from continuing to adopt practical energy efficient measures. More efficient heating and cooling systems for military buildings, energy saving engines, and other such technology applications would save money and could improve the readiness and capabilities of our Armed Forces. The Defense Department has stated this position, as well. To date, the Defense Department actually is on the forefront of implementing energy efficient measures that have saved substantial

amounts of money and energy and increased our environmental protection.

Mr. WAXMAN. Mr. Chairman, I agree with the intent of Mr. GILMAN's amendment and support it. Indeed, the Kyoto Protocol will improve the national security of the United States by reducing the risk of catastrophic climate change, which would create upheaval and unrest throughout the world, including the potential for millions of environmental refugees.

Furthermore, measures to implement the Kyoto Protocol can improve our security by reducing our dependence on imported oil through improved energy efficiency and increased reliance on domestic renewable energy resources.

At the same time, the Administration has issued clear policy guidance assuring that implementation of the Kyoto Protocol will not impair or adversely affect the training or operation and maintenance of the United States Armed Forces.

I am concerned, however, that the Amendment as drafted could be ambiguous. The Department of Defense was a leader in reducing the use of ozone depleting substances and has received awards for its efforts from the Environmental Protection Agency. In recent years DoD has made great strides in increasing energy efficiency in military housing. it has also invested in technologies, such as fuel cells, that could improve military effectiveness and reduce greenhouse gas emissions. I am supporting the amendment because I do not believe it prevents DoD from pursuing these valuable goals. I urge the chairman to work with the Department of Defense to clarify this language in conference committee.

Mr. GILMAN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. PEASE). The question is on the amendment offered by the gentleman from New York (Mr. GILMAN).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. GILMAN. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 441, further proceedings on the amendment offered by the gentleman from New York (Mr. GILMAN) will be postponed.

The CHAIRMAN pro tempore. It is now in order to consider Amendment No. 3 printed in part B of House Report 105–544.

AMENDMENT NO. 3 OFFERED BY MR. HEFLEY

Mr. HEFLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 3 offered by Mr. HEFLEY:

At the end of title X (page 234, after line 4), insert the following new section:

SEC. 1044. PROHIBITION ON ASSIGNMENT OF UNITED STATES FORCES TO UNITED NATIONS RAPIDLY DEPLOYABLE MISSION HEADQUARTERS.

No funds available to the Department of Defense may be used to assign or detail any member of the Armed Forces to duty with the United Nations Rapidly Deployable Mission Headquarters (or any similar United Nations military operations headquarters).

The CHAIRMAN pro tempore. Pursuant to House Resolution 441, the gentleman from Colorado (Mr. HEFLEY) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from Colorado (Mr. HEFLEY).

Mr. HEFLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to offer an amendment which would prohibit the Department of Defense from spending U.S. taxpayer dollars on the assignment or detailing of any member of the U.S. military to duty with the United Nations Rapidly Deployable Missions Headquarters or any similar U.N. organization.

As many of you know, this proposed headquarters is intended by the Secretary General of the United Nations to form the core of a standing U.N. military force; now, let me repeat that, a standing U.N. military force. And the administration has already spent a limited amount of funds to help establish the headquarters operation.

Now, think about this for a moment. The United Nations wants to create a rapidly deployable standing military force, including United States soldiers, and the administration seems to be willing to go along.

I have a quote from the Washington Times that reads, ''The U.N. wants standby forces that could be called up immediately to permit U.N. headquarters to tailor foreign military units to suit the countries or regions to which they are assigned.''

The U.N. complains that under current conditions they must develop each mission from scratch after a vote by the Security Council, and in some cases this can take too long. I think they should have to start from scratch on each mission to ensure nations understand their commitments thoroughly.

Why should the committee support this amendment? The answer is the ambiguity of the current administration policy with regard to U.S. participation in U.N. peacekeeping and other military operations. Although the administration formally denies any intent to assist in the creation of a standing U.N. military force, and despite repeated congressional actions to limit or prohibit the involvement of U.S. forces in many U.N. operations and any such U.N. force, the U.S. State Department transferred $200,000 from its voluntary peacekeeping account in October 1997 to fund the establishment of the U.N. Rapidly Deployable Mission Headquarters, the standing U.N. army.

Time and time again this administration has supported peacekeeping operations around the world. They can continue to still do that. But most of those efforts have been controversial. Indeed, the operation in Bosnia is still problematic, and, of course, that is not a U.N. operation.

The simple fact is, Congress ought to be involved in any decision to commit U.S. forces to U.N. peacekeeping operations. It is these kinds of open-ended and at times back door operations that have led to this amendment, and I think all Members will agree we should cut off the funds for this organization until a clear statement is made that our troops will be accountable only to United States command and control.

What is also disturbing to me is that it is unclear what command arrangements would govern any forces assigned to the U.N. Rapidly Deployable Mission Headquarters. The key question of whether any U.S. troops assigned would be under the command of the U.N. Secretary General or their national command authorities has not been answered.

In addition, consider that these forces could be sent out over the objections of the United States Congress. Let me repeat, our forces could be sent into conflict that the Congress does not support or approve of.

The United Nations is a forum for international policy discussion, and should remain so. It is also not a sovereign territory. It has no citizens and no constitutional authority to send U.S. troops into harm's way. Member states should make their contributions to peacekeeping and other multilateral efforts involving military forces consistent with their constitutional requirements in each of those countries. We should not be locked into a conflict or a peacekeeping operation simply because we happen to have U.S. personnel in a standing U.N. army.

This is not an effort to undercut the U.N., and I would say to the gentleman from Missouri (Mr. SKELTON), I hope you believe this, that I am not here to bash the United Nations with what I am trying to do here. I am simply saying that we want to preserve this Congress' prerogatives in the commitment of United States military forces. In other words, for 50 years we have participated in U.N. operations around the world. We could continue to do that, even if this amendment passes, but we would not have a standing U.N. army under the command and control of the Secretary General of the United Nations.

Mr. Chairman, I ask Members to vote for this amendment and keep U.S. forces under U.S. control.

Mr. Chairman, I reserve the balance of my time.

□ 1615

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume to say that with sadness, I find that I must disagree and oppose this amendment. Mr. Chairman, I read it. Let me read it to the body. ''No funds available to the Department of Defense may be used to assign or detail any member of the Armed Forces to duty with the United Nations Rapidly Deployable Mission Headquarters (or any similar United Nations military operations headquarters).'' This amendment could lead to disaster.

First, Mr. Chairman, let me state unequivocally that I am against a standing union army. I will repeat that. I am against a United Nations standing army. That is not right. Also, thinking of the words of my friend from Colorado (Mr. HEFLEY), who is my good friend, he speaks of the commitment of the United States forces being kept with Congress, and if he will recall, not so long ago our colleague, the gentleman from Indiana (Mr. BUYER) and I, made that case very well, and successfully, on this floor through our debate, and I think the gentleman from Colorado agreed with us, that the forces at that time should not be deployed to Bosnia.

So on the very basics of which the gentleman from Colorado speaks, I agree, but that is not what we are passing into law.

What is being passed into law is the amendment that I just read. It could create some real problems for American soldiers. It could create some real problems for American leadership. For instance, it restricts the flexibility of the President's ability to detail or otherwise deploy U.S. military personnel in his capacity as Commander in Chief with the advice of his military advisors. That is very, very important. I speak not just for this President, I speak for those future Presidents regardless of what political party to which they belong.

I also mention the fact that it would undermine our efforts encouraging other nations to play a greater role in U.N. peacekeeping activities. If we are not helping plan something, and they know we are the best, and we are the best, whether it be at planning or in the field, it would undermine those nations' confidence, playing a role in those activities where we participate. But more than that, it concerns me a great deal that this amendment would prevent the best and the brightest of our Armed Forces to plan with other nations and to be a leading part of planning with those other nations in an operational situation.

Mr. Chairman, this would be similar to prohibiting the United States of America's military forces from planning NATO operations. This does not prevent them from being in the field; this does not prevent or interfere with the Commander in Chief's prerogatives. This prevents good military thinking, and we are the best.

I have spent a great deal of time, as my friend from Colorado (Mr. HEFLEY) will recall, with the military war colleges, both intermediate war colleges such as at Fort Leavenworth and the senior war colleges such as the National War College, and we put a lot of time, effort and money into making our captains and majors and lieutenant commanders the best and the brightest for planning things. We are good at it. We are going to say to the finest military planners, whether it be an operation that involves risk, or an operation that involves humanitarianism, or an operation that involves peacekeeping; this is going to say to the best and brightest planners in military uniform of the United States you cannot participate. You can send the troops out there, but you cannot participate in the planning.

That is an invitation for disaster for some fine young Americans. One of the problems that we had in Somalia, if the gentleman remembers, was that there was no central planning for that operation.

What this amendment will allow, for instance, it would allow the Bangladeshis, the Ethiopians, the Kazakhstanis, to do the planning for American forces to go out in the field. I am not about to let that happen. I am not about to let other people plan for the American troops. That is wrong. When American troops are involved, when their safety is involved, when their mission is involved, I cannot and I will not support that.

I must compliment the gentleman from Colorado (Mr. HEFLEY) in his attempt to stand, as I do, against a standing in our Nation's army. But as so often happens, this rifle shot, Mr. Chairman, sadly misses the mark.

In truth and fact, the U.S. forces in Korea would be affected because that was and is a United Nations operation. The troops that we have, and I visited them, and I am so proud of them, in Macedonia on peacekeeping, watchful duty, no American military personnel could plan what they do. Do we want those other folks to tell where they are going to be, what they are going to be doing and how they are going to be doing it? No. I want Americans planning this.

I would really hope that my friend from Colorado would take a good look at this and if he would like to have an amendment that would say that he stands against a standing by the United Nations army, I am with the gentleman. I think that is absolutely wrong. But let us not risk the lives of bright young Americans by not having bright, a little bit older Americans, plan what they are going to do in humanitarian or peacekeeping crisis situations.

So I find myself driven to the conclusion that I must oppose this.

Mr. Chairman, I reserve the balance of my time.

Mr. HEFLEY. Mr. Chairman, I yield myself such time as I may consume before I yield to the chairman of the Committee on National Security.

I find it unusual that the gentleman from Missouri (Mr. SKELTON) and I are ever in disagreement on anything, and I think it illustrates that people of goodwill and with good reading ability can read the same thing and find very, very different meanings in it.

What this is meant to do is exactly what the gentleman said he would support, and that is not to have a standing U.N. army. As to the gentleman's explanation, I do not want all of those things either, I would say to the gentleman. I do not want to undermine our efforts to get others to participate, but for 50 years we have gotten others to participate without a standing U.N. army.

The gentleman talks about us letting others plan. That is the very idea. We do not want others to plan our command and control of our troops. They are not to be a standing army. If we are going to get involved with the U.N., we want it to function like it has over the last 50 years. We get involved. Generally we take the lead. Generally we do the planning. Generally the others join in with us as in the Persian Gulf War to accomplish a U.N. mission.

So I think the goal is the same. The gentleman is reading into this amendment things that I simply do not see there.

Mr. Chairman, I yield such time as he may consume to the gentleman from South Carolina (Mr. SPENCE), the chairman of the Committee on National Security.

(Mr. SPENCE asked and was given permission to revise and extend his remarks.)

Mr. SPENCE. Mr. Chairman, I rise in support of the Hefley amendment prohibiting the assignment of United States Armed Forces to the United Nations Rapidly Deployable Mission Headquarters.

Last October, the State Department approved $200,000 from its voluntary peacekeeping account to create a U.N. Rapidly Deployable Mission Headquarters. This was the first down payment in the United Nations $2.3 million plan for this organization. Officially, the purpose of this RDMH, or whatever we call it, is to set up a command and control center for U.N. forces anywhere in the world. The headquarters is to have 8 officers, apparently permanently detailed to the U.N., and already has a Canadian Army Lieutenant Colonel who is ''on loan'' to organize the headquarters and recruit other officers to join in.

Mr. Chairman, I have no doubt that such an arrangement could improve the performance and professionalism of U.N. peacekeeping forces, and they certainly need it. However, it is clear that the U.N. continues to pursue a broader agenda, and that is the key element we are talking about here today.

Choi Young-Jin, the Korean diplomat, who is the U.N.'s Assistant Secretary General for Peacekeeping, recently admitted that the U.N. remains committed to establishing a standing army. The U.N.'s official spokesman later tried to clarify that, and said that Rapidly Deployable Mission Headquarters is an interim step, an interim step. That is exactly what we are talking about, since a standing army is ''too ambitious for the time being.''

We are looking at the long haul in this legislation today.

There are also legitimate questions over whether Rapidly Deployable Mission Headquarters represents a first step toward U.N. military independence. It already promises to weaken

the ability of the Congress to influence United States military action. The first mission of the headquarters is reported to be in the Central African Republic to replace the French army as it withdraws from that troubled Nation. But just this March, Congress blocked the administration's $9.5 million request to pay the U.S. share of that mission. Nonetheless, the administration has supported the mission in the Security Council, and now apparently the Rapidly Deployable Mission Headquarters will lead the way into the Central African Republic.

Confronted with the charge that this headquarters represents a first step toward a standing U.N. force, State Department officials do not simply deny the link between the two. Indeed, they go further, saying that they support the Rapidly Deployable Mission Headquarters because it does not support the standing army concept. That does not make sense. This makes no sense.

Let me review the facts. This headquarters unit will provide the core capability for a U.N. standing army. The nations which support a standing army concept welcome this development, and U.N. officials describe it as an interim step toward a standing army. Think of the implications of a standing U.N. army. Will they defend the United States of America against others? What part will our own Armed Forces play in it in such an event?

□ 1630

The lesson learned in recent years, especially in places like Bosnia and Somalia, is that the United Nations military operations are more likely to draw U.S. forces into a mess, rather than to keep them out. I wonder whether the eight soldiers who are supposed to form the U.N. Rapidly Deployable Mission Headquarters in the Central African Republic will once again prove to be an advance party for what becomes an American operation?

Time and time again the Congress has passed legislation to limit the participation of United States troops in U.N. missions. Only congressional vigilance, and where necessary, preemptive action such as the Hefley amendment, can prevent the further subcontracting of American foreign security policy to the United Nations. I strongly urge my colleagues to support the Hefley amendment.

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me say that if what we are really after is the same thing, why do we not amend this or rewrite it and say that the United States shall not participate in a standing United Nations army? That is not what this says.

I am very, very concerned that, after the fact, we may very well find some fine young Americans, as a result of not being able to plan ahead and not have people planning ahead who know what they are doing, and Americans who know what they are doing, injured or even killed. It is a deep concern of mine.

I know full well, Mr. Chairman, that on the very substance of this issue that the gentleman from Colorado (Mr. HEFLEY) and I agree, but the wording of this frankly causes me a great deal of concern. If we read this very carefully, we will see that it opens a door to Ukranians and Russians and Kazakhstanis and Bangladeshis for planning what our armed forces are going to do. I cannot, I cannot, stand by and let that happen.

Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. HASTINGS).

(Mr. HASTINGS of Florida asked and was given permission to revise and extend his remarks.)

Mr. HASTINGS of Florida. Mr. Chairman, I want to approach this subject very carefully. First, I thank the gentleman from Missouri (Mr. SKELTON) for yielding time to me. The gentleman from Missouri (Mr. SKELTON) and the gentleman from Colorado (Mr. HEFLEY) are two people that I have the greatest respect for, as I do virtually all of the Members of this institution.

Mr. Chairman, this particular amendment, most respectfully, is attempting to solve a problem that does not exist. We have all, at some point, been critical of the United Nations. Many have criticized the United Nations for its failure to respond promptly to conflict overseas. Our colleagues on the Committee on National Security often criticize the U.N. for not having professional military capabilities.

However, this proposed U.N. Rapidly Deployable Mission Headquarters is a response to these criticisms. It would be a very small unit in New York, staffed by a handful of U.N. employees and personnel, on loan from member states which could deploy quickly to the field to establish communications links, make a survey of the ground situation, and other commonsense steps. This unit is not a stalking horse for a United Nations standing army.

I remember reading something in the Washington Times to that effect, and I think that that article in and of itself was ill-advised, to suggest that the military, or those of us here in Congress who pay attention to the defense and foreign policy matters, would not have the ability to understand that a standing army had been created at the United Nations without our knowledge.

If we want the United Nations to be more professional in its peacekeeping operations, and we do, I cannot understand why we would want to prohibit United States military personnel from participating in such a unit. We would all agree, I would hope, that the United States military is the finest in the world. Why would we not want, on a voluntary basis, to contribute, say, a communications specialist to this very small unit at the United Nations?

Mr. Chairman, I urge Members to oppose this amendment. In my view, and in the view of several of us that serve on the Committee on International Relations, it is unnecessary and it is harmful to our interests. It is patently obvious that the administration opposes it, but I call on all my colleagues in this body to oppose this amendment, as well.

Mr. HEFLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I hope the gentleman who just spoke listened to the gentleman from South Carolina (Chairman SPENCE) when he read the statement from the Secretary General's office which says that this is an interim step, that we cannot get the standing army yet, but this is the interim step. So this is the start of their idea of a standing army.

I think most of us would agree we do not want a standing army. So where do we stop it? We stop it at the outset.

Mr. HASTINGS of Florida. Mr. Chairman, will the gentleman yield?

Mr. HEFLEY. I yield to the gentleman from Florida.

Mr. HASTINGS of Florida. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, does the gentleman think for one minute that the gentleman from Missouri (Mr. SKELTON) or any of the fine Members of the Committee on National Security or anyone else on the Committee on International Relations would stand idly by and allow that to develop?

This is not a step in that direction, I say to the gentleman from Colorado (Mr. HEFLEY). I honestly think we can stop it. The gentleman is asking for something that is just not a problem.

Mr. HEFLEY. Mr. Chairman, I would say to the gentleman, we have already put $200,000 into it, and we did not stop it.

Mr. Chairman, I yield 3½ minutes to the gentlewoman from Idaho (Mrs. CHENOWETH).

Mrs. CHENOWETH. I thank the gentleman from Colorado for yielding time to me, Mr. Chairman.

Mr. Chairman, I rise in strong support of the Hefley amendment, which would, very simply, prohibit President Clinton from putting our troops under the command of a newly created United Nations organization known as the Rapidly Deployable Mission Headquarters.

The U.N. Rapidly Deployable Mission Headquarters is designed to function as a worldwide command and control network for U.N. forces. This new organization, which is here, which is being funded, would create a worldwide standby army for peacekeeping operations which could mobilize at any time.

Most of my colleagues, most Members of Congress on both sides of the aisle, would be really disturbed to know that the Clinton administration, without authorization, has given the U.N. $200,000 as seed money to organize this army. That is the problem, Mr. Chairman, that is the problem.

This Rapidly Deployable Mission Headquarters would report to an eight-

member command unit at the United Nations, which functions under the U.N. Security Council. In other words, this is a permanent military unit which functions directly under the control of the United Nations. It appears to be a backdoor way for creating a standing army when Congress has specifically prohibited U.S. support for a standing army.

Mr. Chairman, I want to remind my colleagues of the tragedy that occurred in Mogadishu, Somalia. We might recall watching in horror as the U.S. Army helicopter was attacked and our troops were dragged through the streets, held hostage, tortured, and killed.

Members might also recall that the multinational military unit created for the Somalia engagement functioned under the control of the U.N. An investigation revealed that the primary factor was not centralized planning, Mr. Chairman. The primary factor which led to this terrible incident was the inability of the various military commanders to communicate to one another because of the language barriers. They could not talk to one another.

If we allow another military engagement to function under the control of the U.N., similar types of tragedies are certain to happen. In fact, it happens the creation of the Rapidly Deployable Mission Headquarters could be the precursor to a deployment in highly unstable and dangerous Central African Republic. The first mission of the headquarters was reported to be in the Central African Republic, to replace the French army as it withdraws from that troubled Nation.

Just this March Congress blocked the administration's $9.5 million request to pay the U.S. share of that mission. However, by supporting the Rapidly Deployable Mission Headquarters, the Clinton administration has simply ignored the mandate by Congress not to get our troops involved in the Central African Republic. That is the problem. That is what this amendment is addressing, Mr. Chairman.

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I find myself betwixt and between two very, very good Members of this committee, two excellent Members of Congress.

If I listen to both of the Members, I find them saying almost the same thing. They are both saying we do not want a standing U.N. army, and I agree with that. The difference I see is in the point that the gentleman from Missouri (Mr. SKELTON) makes, which is why, when there will be a joint operation, when there will be a joint operation, do we prohibit the very best from participating?

Last October I had lunch with the head of the British forces, the head of the French forces, the head of the Italian forces over in Bosnia, very proud people who spent their whole lives getting to the top of their profession.

It must have been very difficult for them to say what they said, but what they said was that they could not do it without the Americans; that when they went in without the Americans, their peacekeepers were chained to the lightpost, and people were raped and murdered and tortured in front of them, to show them how helpless they were. All that changed when the American troops came in.

What I would like the gentleman from Colorado (Mr. HEFLEY) and the gentleman from Missouri (Mr. SKELTON) to do is I would like to see the amendment of the gentleman from Colorado (Mr. HEFLEY) move on, but I would hope that in the very long time we have between now and the conference committee, that the Members work this out so that we accomplish what I know to be the Members' mutual goals.

I would simply ask the author of this amendment if he would be willing to try to work with the gentleman from Missouri (Mr. SKELTON) on this, because I am hearing the Members saying way too many of the same things for us to get involved in a fight on the floor about this.

Mr. HEFLEY. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentleman from Colorado.

Mr. HEFLEY. Mr. Chairman, I think the gentleman from Missouri (Mr. TAYLOR) is absolutely right. I think the goals of the gentleman from Missouri (Mr. SKELTON) and me are the same as the gentleman's probably are. If we can work out a better way to word this so it takes care of the concerns of the gentleman from Mississippi (Mr. TAYLOR) and the gentleman from Missouri (Mr. SKELTON), I will be happy to do that.

We all do not want a standing army, that is what we are all trying to avoid. I would pledge to work with the gentleman from Missouri (Mr. SKELTON) to see if we cannot get this wording to all of our satisfaction.

Mr. TAYLOR of Mississippi. Mr. Chairman, I thank the gentleman.

Mr. HEFLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. PAUL)

Mr. PAUL. Mr. Chairman, I thank the gentleman for yielding time to me, and I would like to compliment the gentleman for bringing this amendment to the floor.

Mr. Chairman, I want to make a couple of points. One, the other side of the aisle has mentioned that this is only a small amount. We are just introducing this idea. We are only giving a couple of dollars now. It reminds me of the arguments in 1913, let us have an income tax, but it is only going to be a fraction of 1 percent. We know what happened. There are plans for what they are doing. This is the time to stop it.

I think another point that we ought to make is, how did they get any money already? They got it from the Defense Department. We did not even appropriate the money. They have already started it. They have used American taxpayers' money without a direct appropriation from this Congress, and it is about time we stopped that type of legislation. That is the point. Where did the money come from? The Defense Department. It goes over into the United Nations for meddling, meddling overseas. It is taken away, literally, from defense.

We have a problem in this country for national defense. We have Air Force people who do not get flying time. Our men are not trained. We do not have the right equipment. We continuously spend all our money overseas, endlessly getting involved in Bosnia and Somalia, and wherever.

I think it is policy that needs to be addressed. It is the policy that allows our administration to do this, because there is too much complicity in allowing the United Nations to assume our sovereignty.

☐ 1645

That is the point here. The American people deserve better protection. They deserve better protection of their money. They deserve better protection of their youngsters who may get drafted and may get sent overseas. There is a great deal of danger in the Bosnia and Kosovo area, yet here we are talking about starting a new U.N. organization that unfortunately dwells on the term and brags about rapidly deployable. That is the last thing we need from the United Nations. I would like to slow it up, but now they want to take away our sovereignty to go and get involved more easily than ever and more quickly than ever.

So this is absolutely the wrong direction that we are going in today. This is a further extension of the notion that our obligation is to police the world. We are supposed to make the world safe for democracy. Just think, since World War II, we have not had one declared war, but we sure have been fighting a lot. We have lost well over 100,000 men killed. We have lost, we have had hundreds of thousands of men injured because we have a policy that carelessly allows us to intervene in the affairs of other nations, and we allow the United Nations to assume too much control over our foreign policy.

It is up to the U.S. Congress to do something about that; that is, to take away the funding. This is a great amendment. I cannot conceive of anybody voting against this amendment and pretending that this is only a little bit.

Mr. HEFLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland (Mr. BARTLETT).

(Mr. BARTLETT of Maryland asked and was given permission to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Chairman, our President may be a

globalist. He may genuinely believe that if we support a U.N. army that is stronger than the military of any member state, that this will permit the United Nations to keep the peace in the world. This rapid response force could very easily be a first step in this direction.

Clearly, the President means it to be a step in whatever direction he intends to go because he has given them $200,000.

I have some problem understanding how he can do this because Article I, section 9 of the Constitution says, ''No money shall be drawn from the Treasury but in consequence of appropriations made by law.''

The Congress makes those appropriations. We made no such appropriation. I do not understand how the President can give our taxpayers' money to the U.N. without an act of Congress.

The citizens of our country do not support any such idea as a standing army or rapid response force in the United Nations. They support the Constitution, which says very clearly, in Article I, section 8, ''The Congress shall have power to declare war.''

The President cannot do this, and any time he sends troops in harm's way it is the equivalent of a declaration of war, and I submit that that is technically in violation of the Constitution.

Mr. Chairman, if we vote down this amendment, Americans will think that we have gone mad. If we are going to be involved in military activities, we need to do so as Americans and under the control of Americans.

The gentleman from Missouri made the argument that if we pass this amendment that we will limit the President's ability to send our troops hither and yon in the world. I should hope so. I think that when he uses taxpayers' money in sending our troops to faraway lands where they are in harm's way, that is the exact equivalent of a declaration of war. Except in a dire emergency, he has no right to do this. Americans do not want him to continue to do this. That is Congress's responsibility, as defined by the Constitution.

Americans in poll after poll support the spirit of this amendment by at least 4 to 1. This amendment does not say we cannot participate in planning or in execution. It simply says, our involvement will not be automatic because we are a member of some rapid response force. It says that we will decide each time what is in our best national interest.

The amendment does not prohibit joint operations. It simply says that when we are involved, we will decide and we will control.

Mr. Chairman, this is a very common sense amendment which Americans overwhelmingly support. We must support it here also.

Mr. HEFLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Kansas (Mr. RYUN).

Mr. RYUN. Mr. Chairman, I rise in strong support of the Hefley amendment to prohibit the assignment of U.S. Armed Forces to United Nations Rapidly Deployable Mission Headquarters.

It is no secret that the United Nations wants to establish a standing army. My concern is that we may be starting down a slippery slope toward the goal of placing our troops under the command of the United Nations. U.S. troops are already deployed around the world to U.N. peacekeeping operations, and this is very important, which have little to do with U.S. security issues, this is also important, which have questionable success rates.

These deployments are putting a strain on our defense budget, and they are also shrinking our military and they are putting our people, our military people in harm's way. Our defense budget continues to decline. Readiness shortfalls are common. No U.S. military resources should be made available to the U.N. Rapidly Deployable Missions Headquarters.

If the administration is able to find money, and it is my prayer that they can find money, but we can use it on national security, as opposed to contributing money to a new U.N. project. I know I have plenty of military housing quality-of-life problems back in my district which should be funded before we spend additional taxpayer dollars on new U.N. bureaucracies.

I urge my colleagues to protect our Armed Forces from any future U.N. infringements and vote yes on the Hefley amendment.

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume.

I have made my thoughts clear, and I oppose a standing United Nations army. I oppose the United States military forces being part of a standing United Nations army. What I am concerned about is the wording in this amendment that may cause in the long run some injuries and casualties to wonderful United States troops.

I think that is our job in this body, to support the troops. And in my small way, in reading this amendment and the wording of this amendment, I am standing up for American troops.

Mr. Chairman, I yield back the balance of my time.

Mr. HEFLEY. Mr. Chairman, I yield myself such time as I may consume.

In summary, again, I think the gentleman from Missouri (Mr. SKELTON) and I are on the same track. We interpret the wording of this amendment a little differently. I think we are on the same track as to what we want to do. I hope that we can work this out.

Let me just read again a brief paragraph that the gentleman from South Carolina (Mr. SPENCE) emphasized: Choi Young-Jin, the Korean diplomat who is the U.N.'s Assistant Secretary General for Peacekeeping, recently admitted that the U.N. remains committed to establishing a standing army. Now get that, the U.N. remains committed to establishing a standing army.

The U.N.'s official spokesman later tried to clarify what Mr. Choi meant to say, that this rapidly deployable headquarters is an interim step, he said, since a standing army is too ambitious for the time being. In other words, one of the leading diplomats, the Assistant Secretary General for Peacekeeping said that the U.N. is committed to a standing army and, of course, he went too far and so he tried to explain it and then he said, well, that is too ambitious a step for right now.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. HEFLEY. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Chairman, he is absolutely wrong. I am not for that. I am not for that at all.

What bothers me is the wording of this amendment. I think this amendment, as worded, as I explained a few moments ago, should it become law, could very well invite some real disasters for our troops. I really think that it can be rewritten much, much better.

Mr. HEFLEY. Mr. Chairman, the gentleman may be absolutely right. It may be able to be worded much better, but if he and I believe the same thing, that we do not want a standing army, the way for us to assure that is to let this amendment go ahead and progress. I have committed to the gentleman that I will work with him as we go through this process and try to get the wording in a way that we can both agree on. But if we kill the amendment here today on the floor of the House, then there is no opportunity for us to do that.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. PEASE). The question is on the amendment offered by gentleman from Colorado (Mr. HEFLEY).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. HEFLEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 441, further proceedings on the amendment offered by gentleman from Colorado (Mr. HEFLEY) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to House Resolution 441, proceedings will now resume on those amendments on which further proceedings were postponed in the following order:

Amendment No. B–1 offered by the gentlewoman from New York (Mrs. LOWEY); amendment No. B–2 offered by the gentleman from New York (Mr. GILMAN); amendment No. B–3 offered by the gentleman from Colorado (Mr. HEFLEY).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. B–1 OFFERED BY MRS. LOWEY

The CHAIRMAN pro tempore. The pending business is the demand for a

recorded vote on the amendment offered by the gentlewoman from New York (Mrs. LOWEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 190, noes 232, not voting 10, as follows:

[Roll No. 171]

AYES—190

Abercrombie	Frost	Morella
Ackerman	Furse	Nadler
Allen	Gejdenson	Neal
Andrews	Gephardt	Obey
Baesler	Gilchrest	Olver
Baldacci	Gilman	Owens
Barrett (WI)	Gordon	Pallone
Bass	Green	Pascrell
Becerra	Greenwood	Pastor
Bentsen	Gutierrez	Payne
Berman	Hastings (FL)	Pelosi
Bishop	Hefner	Pomeroy
Blagojevich	Hilliard	Porter
Blumenauer	Hinchey	Price (NC)
Boehlert	Hinojosa	Pryce (OH)
Bonior	Hooley	Ramstad
Bono	Horn	Rangel
Boswell	Houghton	Reyes
Boucher	Hoyer	Rivers
Boyd	Jackson (IL)	Rodriguez
Brown (CA)	Jackson-Lee	Rothman
Brown (FL)	(TX)	Roukema
Brown (OH)	Jefferson	Roybal-Allard
Campbell	Johnson (CT)	Rush
Capps	Johnson (WI)	Sabo
Cardin	Johnson, E.B.	Sanchez
Castle	Kelly	Sanders
Clayton	Kennedy (MA)	Sandlin
Clement	Kennedy (RI)	Sawyer
Clyburn	Kennelly	Schumer
Condit	Kilpatrick	Scott
Conyers	Kind (WI)	Serrano
Coyne	Kleczka	Shaw
Cramer	Kolbe	Shays
Cummings	Lampson	Sherman
Davis (FL)	Lantos	Sisisky
Davis (IL)	Leach	Skaggs
DeFazio	Lee	Slaughter
DeGette	Levin	Smith, Adam
Delahunt	Lewis (GA)	Snyder
DeLauro	Lofgren	Spratt
Deutsch	Lowey	Stark
Dicks	Luther	Stokes
Dingell	Maloney (CT)	Strickland
Dixon	Maloney (NY)	Tanner
Doggett	Markey	Tauscher
Dooley	Martinez	Thomas
Edwards	Matsui	Thompson
Ehrlich	McCarthy (MO)	Thurman
Engel	McCarthy (NY)	Tierney
Eshoo	McDermott	Torres
Etheridge	McGovern	Towns
Evans	McHale	Turner
Farr	McKinney	Velazquez
Fattah	Meehan	Vento
Fawell	Meek (FL)	Visclosky
Fazio	Menendez	Waters
Filner	Millender-	Watt (NC)
Foley	McDonald	Waxman
Ford	Miller (CA)	Wexler
Fowler	Miller (FL)	White
Frank (MA)	Minge	Woolsey
Franks (NJ)	Mink	Wynn
Frelinghuysen	Moran (VA)	Yates

NOES—232

Aderholt	Bartlett	Bonilla
Archer	Barton	Borski
Armey	Bereuter	Brady
Bachus	Berry	Bryant
Baker	Bilbray	Bunning
Ballenger	Bilirakis	Burr
Barcia	Bliley	Burton
Barr	Blunt	Buyer
Barrett (NE)	Boehner	Callahan
Calvert	Hyde	Pitts
Camp	Inglis	Pombo
Canady	Istook	Portman
Cannon	Jenkins	Poshard
Chabot	John	Quinn
Chambliss	Johnson, Sam	Radanovich
Chenoweth	Jones	Rahall
Christensen	Kanjorski	Redmond
Coble	Kaptur	Regula
Coburn	Kasich	Riggs
Collins	Kildee	Riley
Combest	Kim	Roemer
Cook	King (NY)	Rogan
Cooksey	Kingston	Rogers
Costello	Klink	Rohrabacher
Cox	Klug	Ros-Lehtinen
Crane	Knollenberg	Royce
Crapo	Kucinich	Ryun
Cubin	LaFalce	Salmon
Cunningham	LaHood	Sanford
Danner	Largent	Saxton
Davis (VA)	Latham	Scarborough
Deal	LaTourette	Schaefer, Dan
DeLay	Lazio	Schaffer, Bob
Diaz-Balart	Lewis (CA)	Sensenbrenner
Dickey	Lewis (KY)	Sessions
Doolittle	Linder	Shadegg
Doyle	Lipinski	Shimkus
Dreier	Livingston	Shuster
Duncan	LoBiondo	Skeen
Dunn	Lucas	Skelton
Ehlers	Manton	Smith (MI)
Emerson	Manzullo	Smith (NJ)
English	Mascara	Smith (OR)
Ensign	McCollum	Smith (TX)
Everett	McCrery	Smith, Linda
Forbes	McDade	Snowbarger
Fossella	McHugh	Solomon
Fox	McInnis	Souder
Gallegly	McIntosh	Spence
Ganske	McIntyre	Stearns
Gekas	McKeon	Stenholm
Gibbons	McNulty	Stump
Gillmor	Metcalf	Stupak
Goode	Mica	Sununu
Goodlatte	Moakley	Talent
Goodling	Mollohan	Tauzin
Goss	Moran (KS)	Taylor (MS)
Graham	Myrick	Taylor (NC)
Granger	Nethercutt	Thornberry
Gutknecht	Neumann	Thune
Hall (OH)	Ney	Tiahrt
Hall (TX)	Northup	Traficant
Hamilton	Norwood	Upton
Hansen	Nussle	Walsh
Hastert	Oberstar	Wamp
Hastings (WA)	Ortiz	Watkins
Hayworth	Oxley	Watts (OK)
Hefley	Packard	Weldon (FL)
Herger	Pappas	Weldon (PA)
Hill	Parker	Weller
Hilleary	Paul	Weygand
Hobson	Paxon	Whitfield
Hoekstra	Pease	Wicker
Holden	Peterson (MN)	Wolf
Hostettler	Peterson (PA)	Young (AK)
Hulshof	Petri	Young (FL)
Hunter	Pickering	
Hutchinson	Pickett	

NOT VOTING—10

Bateman	Gonzalez	Stabenow
Carson	Harman	Wise
Clay	Meeks (NY)	
Ewing	Murtha	

□ 1716

The Clerk announced the following pair:

On this vote:

Ms. Stabenow for, with Mr. Ewing against.

Mr. GEKAS and Mr. LAZIO of New York changed their vote from ''aye'' to ''no.''

Mr. KIND and Mrs. CLAYTON changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. PEASE). Pursuant to House Resolution 441, the Chair announces that it will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT OFFERED BY MR. GILMAN

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. GILMAN) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 420, noes 1, not voting 11, as follows:

[Roll No. 172]

AYES—420

Abercrombie	Coble	Furse
Ackerman	Coburn	Gallegly
Aderholt	Collins	Ganske
Allen	Combest	Gejdenson
Andrews	Condit	Gekas
Archer	Conyers	Gephardt
Armey	Cook	Gibbons
Bachus	Cooksey	Gilchrest
Baesler	Costello	Gillmor
Baker	Cox	Gilman
Baldacci	Coyne	Goode
Ballenger	Cramer	Goodlatte
Barcia	Crane	Goodling
Barr	Crapo	Gordon
Barrett (NE)	Cubin	Goss
Barrett (WI)	Cummings	Graham
Bartlett	Cunningham	Granger
Barton	Danner	Green
Bass	Davis (FL)	Greenwood
Becerra	Davis (IL)	Gutierrez
Bentsen	Davis (VA)	Gutknecht
Bereuter	Deal	Hall (OH)
Berman	DeFazio	Hall (TX)
Berry	DeGette	Hamilton
Bilbray	Delahunt	Hansen
Bilirakis	DeLauro	Hastert
Bishop	DeLay	Hastings (FL)
Blagojevich	Deutsch	Hastings (WA)
Bliley	Diaz-Balart	Hayworth
Blumenauer	Dickey	Hefley
Blunt	Dicks	Hefner
Boehlert	Dingell	Herger
Boehner	Dixon	Hill
Bonilla	Doggett	Hilleary
Bonior	Dooley	Hilliard
Bono	Doolittle	Hinchey
Borski	Doyle	Hinojosa
Boswell	Dreier	Hobson
Boucher	Duncan	Hoekstra
Boyd	Dunn	Holden
Brady	Edwards	Hooley
Brown (CA)	Ehlers	Horn
Brown (FL)	Ehrlich	Hostettler
Brown (OH)	Emerson	Houghton
Bryant	Engel	Hoyer
Bunning	English	Hulshof
Burr	Ensign	Hunter
Burton	Eshoo	Hutchinson
Buyer	Etheridge	Hyde
Callahan	Evans	Inglis
Calvert	Everett	Istook
Camp	Farr	Jackson (IL)
Campbell	Fattah	Jackson-Lee
Canady	Fawell	(TX)
Cannon	Fazio	Jefferson
Capps	Filner	Jenkins
Cardin	Foley	John
Castle	Forbes	Johnson (CT)
Chabot	Ford	Johnson (WI)
Chambliss	Fossella	Johnson, E. B.
Chenoweth	Fowler	Johnson, Sam
Christensen	Fox	Jones
Clayton	Franks (NJ)	Kanjorski
Clement	Frelinghuysen	Kaptur
Clyburn	Frost	Kasich

Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

PRESENT—1

Frank (MA)

NOT VOTING—11

Bateman
Carson
Clay
Ewing
Gonzalez
Harman
McDade
Meeks (NY)
Murtha
Stabenow
Wise

□ 1725

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT B–3 OFFERED BY MR. HEFLEY

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 3 offered by the gentleman from Colorado (Mr. *Hefley*) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 250, noes 172, not voting 10, as follows:

[Roll No. 173]

AYES—250

Aderholt
Andrews
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeFazio
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Gutierrez
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Inglis
Istook
Jenkins
Johnson (WI)
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kim
Kingston
Klug
Knollenberg
LaHood
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
Martinez
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Portman
Poshard
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stearns
Stenholm
Strickland
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—172

Abercrombie
Ackerman
Allen
Baesler
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Cardin
Clayton
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Greenwood
Hall (OH)
Hamilton
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Houghton
Hoyer
Hyde
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson, E. B.
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Kolbe
Kucinich
LaFalce
Lampson
Lantos
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
Meehan
Meek (FL)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Porter
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Spratt
Stark
Stokes
Stupak
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Woolsey
Wynn
Yates

NOT VOTING—10

Bateman
Carson
Clay
Ewing
Gonzalez
Harman
Meeks (NY)
Murtha
Stabenow
Wise

□ 1733

Ms. HOOLEY of Oregon changed her vote from ''aye'' to ''no.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. EVERETT. Mr. Chairman, the legislation before us today represents our best efforts to fashion a defense authorization bill that meets the national security requirements of the country within a constrained budget. This year marks the 14th consecutive year of real decline in defense spending; a fact that has led to the military being slashed by more than one-third. As a percentage of the Gross National Product, this defense budget represents only 3 percent; the lowest level since before World War II.

I raise these points as a warning. As a Nation who has invested dearly to amass the

greatest military in the world, we cannot continue the erosion of our national security capabilities without assuming greater risk in our ability to meet the many and varied challenges of America's security interests. The Joint Chiefs have all testified that we can still get the job done under this budget, but the associated risk factor to meet the national threat assessment continues to increase. The unfunded requirements also continue to grow, amounting to $54 billion over the next 5 years according to the Chiefs. These unfunded requirements range from the modernization of key weapon systems, to real property maintenance backlogs, to quality of life issues effecting the dedicated military personnel and their families. In addition to these massive unmet requirements, the Congressional Budget Office has indicated that Clinton's 5-year defense budget will not even keep pace with today's mild rate of inflation. This fact broadens the defense budget problems by another $54.4 billion shortfall between now and fiscal 2003.

These sobering realities of the defense budget are important to note, because this administration continues to task the military with countless forward deployments while failing to provide the resources necessary to conduct these missions. The Op Tempo rate of our military personnel is at the breaking point. The Bosnia peacekeeping mission and Operation Southern Watch in Iraq continue to sap the readiness accounts of the services, requiring Congress to approve last-minute emergency supplemental appropriations bills to pay for critical training accounts depleted by these foreign policy forays. These trends are an indication of poor management of the country's national defense.

With that said, I must commend Chairman SPENCE and the subcommittee chairman for their work in crafting this bill under these difficult circumstances. We have been able to provide additional funds for key weapon systems procurement like the UH–60 Black Hawk helicopters and Javelin precision guided missiles and speed up the testing and development of the RAH–66 Comanche, while also adding critical funds to help improve and maintain the infrastructure on our military installations. I urge all members to support the bill.

Mr. UNDERWOOD. Mr. Chairman, I join my colleagues today in support of H.R. 3616, the FY 1999 Defense Authorization Bill. This bipartisan effort has been well received and will do much to ensure that the security of the United States and its territories will be preserved.

Mr. Chairman, these are dangerous times. Today, the United States is faced with multifaceted threats from all corners of the globe. The list is enormous: illicit Ballistic Missile technology transfers from Russia and China, North Korean and Iranian ballistic missile development, a potential nuclear arms race in South Asia, continuing strife in Bosnia, Iraq's failure to completely comply with U.N. weapons inspectors, rioting, oppression, and a secession crisis in Indonesia, a seemingly insurmountable international narcotrafficking problem and the specter of global and domestic terrorism. Our military forces are being stretched to the limit, being forced to do more with less. These threats matched against our Nation's shrinking defense budget all create a tense security environment that our Nation must contend with.

But, Mr. Chairman, H.R. 3616 is not just about outfitting our military with the best equipment and training to meet these challenges, it is also about doing more for our uniformed men and women. H.R. 3616 includes several measures that I introduced that enhances the lives of our service personnel. I was able to obtain language that would allow National Guardsmen to have equal PX/BX and Commissary privileges as the active duty servicemen when called up for duty during a federally declared disaster. We learned of this inequity only too well when Typhoon Paka struck Guam last December. Additionally, I reintroduced an amendment that will authorize the reimbursement for the cost of a rental car, after a permanent change of station transfer to a new duty station overseas under the travel automobile rental allowance authorized to service members. This provision would apply only to service members whose motor vehicle has not arrived by the promised shipping date. This initiative, suggested to me by Colonel Adolf Sgambelluri of Guam, became a reality after working closely with Congressman STEVE BUYER and Congressman GENE TAYLOR.

Mr. Chairman, the House National Security Committee also manages a vital oversight function over the Department of Defense. My colleagues and I treat this responsibility very seriously. Two oversight initiatives that I had included in this bill are (1) to secure directive report language that requires the Department of Defense to report to Congress on the reasons that led to the establishment of Department of Defense Dependents School (DoDDS), their plan of reintegration between the DoDDS and the public school system on Guam, and report on the specific plans to construct any structure on Guam for the expressed purpose of housing DoDDS facilities on Guam; and (2) to require the Department of Defense to report to Congress their proposed plan for privatization of public (departmental and military) owned electric and water utilities and the real property that these utilities are located on. The report also requires that DoD describe the criterion where such a conveyance will not be made on the grounds of national security. I worked closely with Chairman JOEL HEFLEY on this initiative and would like to thank him for his foresight in including this important initiative.

Mr. Chairman, one note of dissent, I am not in support of this bill's provision that will mandate gender-separate training and barracks for all services of the armed forces during basic training. I have often commented on the growing rift in military/civilian relations. I believe that for 50 years the armed forces has been the most successful institution that promotes inclusion of both race and gender. To reverse that noble history, which this measure will certainly do, is to run the risk of dangerously turning our military into an organization that will be further separated from the society that it is charged to defend.

Finally, Mr. Chairman, I am deeply concerned with the Department of Defense's continuing utilization of the A–76 process in its quest to mete out savings and increase productivity. While I recognize that the Department can no longer conduct business the way it had during the Cold War, it seems shortsighted and thankless to potentially lay off thousands of government employees who have served for so long. Despite that the A–76 process, at a minimum, provides a chance for Government employees to compete, we must recognize that this is an inglorious method to show our gratitude for all their years of public service. I believe that the Department of Defense is relying too heavily on A–76, privatization and other outsourcing initiatives to provide sorely needed savings for their programs. I remain skeptical over the estimates that DoD claims they will reap from these processes.

Essentially, I am concerned that the retirement benefit packages of Federal employees is penalized severely for early retirement. Currently, there is no provision to protect the full receipt of benefits if the employee is displaced by a private sector worker as a result of A–76. The devastating inequity of A–76 is that a federal worker who is 2 to 3 years away from retirement will lose out on a full pension through no fault of their own. In conclusion, it is my hope that the Department will seriously review the process to protect its loyal employees and the retirement benefits that they were promised.

Mrs. FOWLER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. GIBBONS) having assumed the chair, Mr. PEASE, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3616) to authorize appropriations for fiscal year 1999 for military activities of Department of Defense, to prescribe military personnel strengths for fiscal year 1999, and for other purposes, had come to no resolution thereon.

NOTICE OF INTENT TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 2400, BUILDING EFFICIENT SURFACE TRANSPORTATION AND EQUITY ACT OF 1998

Mr. MINGE. Mr. Speaker, pursuant to clause 1(c) of House Rule XXVIII, I hereby notify the House of my intention tomorrow to offer the following motion to instruct House conferees on H.R. 2400, Building Efficient Surface Transportation and Equity Act of 1998:

I move the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 2400, be instructed to ensure that spending for highways and transit programs authorized in the conference agreement on H.R. 2400 is fully paid for using estimates of the Congressional Budget Office, to reject the use of estimates from any other source, to reject any method of budgeting that departs from the budget enforcement principles currently in effect, or the use of the budget surplus to pay for spending on highways or transit programs.

MOTION TO INSTRUCT CONFEREES ON H.R. 2400, BUILDING EFFICIENT SURFACE TRANSPORTATION AND EQUITY ACT OF 1998

Mr. OBEY. Mr. Speaker, I offer a motion to instruct conferees.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. OBEY moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 2400, be instructed to insist that no provisions to prohibit or reduce service-connected disability compensation to veterans for smoking-related illnesses be included in the conference report on H.R. 2400 to offset spending for highway or transit programs.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. OBEY) and the gentleman from Wisconsin (Mr. PETRI) each will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, this motion to instruct conferees is very simple. It instructs the House conferees to protect veterans' health care by rejecting any reduction in service-connected disability compensation to veterans for tobacco-related illnesses and then using those cuts to pay for increased highway and transit spending.

Mr. Speaker, we all know that when the transportation bill passed, it was a bloated budget-busting bill that staked a claim on more than $217 billion in Federal resources for roads, bridges, and mass transit over the next 6 years, 40 percent more than the levels provided in the previous legislation.

The bill, as it left the House, is not paid for at all. So it is no surprise that BESTEA conferees have been struggling for weeks to find the ways to pay the check now that it has to be paid.

Mr. Speaker, even though conferees have apparently trimmed the total tab on the bill to somewhere around $200 billion, it is clear that they are having trouble finding the funds they need to pay for the bill.

We know that BESTEA conferees evidently planned to use a combination of directed scorekeeping provisions, smoke and mirrors, and what is the unkindest cut of all, a reduction in veterans' compensation for smoking-related illnesses.

Mr. Speaker, the Minge amendment which has just been noticed will be offered tomorrow because, as you know, the Office of Management and Budget has estimated that savings of $17 billion over 6 years could be achieved by eliminating existing smoking-related disability benefits to veterans who became addicted to nicotine during military service but whose disability occurred only after they left military service.

The Congressional Budget Office has disputed the OMB estimates. Their savings estimates are only about $10.5 billion, and many people believe that, based on VA's current claims, that even the CBO estimate may be too high.

Nonetheless, the Senate budget resolution counted the OMB savings as an offset for the increased highway and transit spending, and the conferees on the final version of the highway bill are apparently about to adopt this overblown savings estimate, even though neither the House nor the Senate-passed highway bills included any provision to cut veterans' compensation.

What that directed scorekeeping means in plain English is that the Congress would be able to bust the budget by billions of dollars and hide the fact from the general public. That is why the gentleman from Minnesota (Mr. MINGE) wants to offer the motion tomorrow in order to try to prevent that.

Meanwhile, we are trying today in this motion to deal with the parallel problem. Apparently, the conferees on the transportation bill have decided to spend $9 billion on over 1,500 pork barrel projects included in the House bill and a nondetermined number of Senate pork projects, and would pay for that pork by cutting health care benefits for veterans.

In short, Mr. Speaker, apparently the conferees would produce a product which would commit highway robbery on veterans' health care.

Mr. Speaker, over 50 veterans groups and other groups oppose these cuts in disability benefits to sick and disabled veterans, or to sick and disabled veterans who have legitimate service-connected claims. The organizations that oppose this action are the Veterans of the Vietnam War; Vietnam Era Veterans Association; Vietnam Veterans of America; the Air Force Sergeants Association; American Ex-Prisoners Of War; American Paraplegia Society; Association of the U.S. Army; Blinded Veterans Association; Brotherhood Rally of all Veterans Organization; Catholic War Veterans, U.S.A.; The Enlisted Association of the National Guard of the United States; Jewish War Veterans of the U.S.A.; Legion of Valor of the U.S.A.; Military Chaplains Association of the U.S.A.; Military Order of the Purple Heart; National Amputation Foundation; National Association for Uniformed Services; National Association of County Veterans Service Officers; National Association Of Military Widows; National Coalition For Homeless Veterans; Noncommissioned Officers Association; Nurses Organization of Veterans Affairs; Polish Legion of American Veterans; The Retired Officers Association; Society Of Military Widows; U.S. Merchant Marine Veterans of World War II, and so on, and so on.

□ 1745

Also I have received a number of letters today from organizations that I did not mention, including the American Legion. I would quote briefly from some of these letters.

The letter from the American Legion says:

Simply put, Members who support rescinding future veterans benefits to pay for highways and mass transit projects should be ashamed of their actions.

The Disabled Americans Veterans letter reads in part as follows:

Your effort to introduce a motion to instruct the House conferees on H.R. 2400 not to use so-called ''savings'' from disability compensation for the highway fund is greatly appreciated.''

AMVETS, they say as follows:

AMVETS strongly supports your motion to instruct conferees on H.R. 2400 not to use veterans' money to pay for these highway projects.

Vietnam Veterans of America:

We feel very strongly that this anti-veteran provision must be stricken from the ISTEA conference report. The fact that Congress is considering taking $16 billion away from veterans compensation in order to increase spending in the Intermodal Surface Transportation and Efficiency Act is an affront to every American who served in the military.

The VFW says as follows:

All Members of the House and Senate must certainly be aware by now of the VFW's outrage regarding the initiative to deprive veterans of the VA compensation to which they are now entitled. This callous assault on veterans in need is made all the more egregious by the fact that the resulting savings are being used to pay for pork-barrel spending in the budget-busting transportation bill.

I have a number of other letters which I will submit for the RECORD.

I would simply ask the House, Mr. Speaker, to vote for this amendment, and I would ask those who vote for it not to do so if they then intend to allow the conferees to come back and, through indirection, accomplish indirectly what we are trying to prohibit directly here today.

Mr. Speaker, this highway bill should not be paid for by cutting back veterans' compensation or veterans' health care benefits. The House originally said when it passed this bill it would not do that. The chairman of the committee put out a press release indicating that he was strongly opposed to doing that. I would hope, therefore, that the committee would stick to their original promise and not in fact allow it to happen, what we have been told from a number of sources they intend to let happen without this motion.

Mr. Speaker, I include for the RECORD the letters from veterans groups referred to earlier:

THE AMERICAN LEGION,
OFFICE OF THE NATIONAL COMMANDER,
Washington, DC, May 20, 1998.

DAVID R. OBEY,
Ranking Minority Member, House Committee on Appropriations, Washington, DC.

DEAR REPRESENTATIVE OBEY: The American Legion fully supports your motion to instruct House Conferees on H.R. 2400, Building Efficient Surface Transportation and Equity Act (BESTEA) of 1998, that insist no provisions to prohibit or reduce service-connected disability compensation to veterans for tobacco-related illnesses be included in the conference report on H.R. 2400 to offset spending for highway or transit programs.

Your motion would uphold Congress' moral, ethical and legal responsibilities with regard to veterans service-connected injuries or illnesses that resulted from addiction to tobacco while serving in the armed forces. Furthermore, your motion would uphold the Sense of the Congress language, contained in section 1001 in the House passed BESTEA legislation, ''to not include any provision

making a change in programs or benefits administered by the Secretary of Veterans Affairs.''

Simply put, members who support rescinding future veterans benefits to pay for highways and mass transit projects should be ashamed of their actions. The American Legion appreciates your leadership, commitment and dedication to ensure Congress remains the protector and guardian of veterans benefits and not reckless financial raiders.

Sincerely,

ANTHONY G. JORDAN,
National Commander.

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
Washington, DC, May 20, 1998.

Hon. DAVID OBEY
U.S. House of Representatives, Washington, DC.

DEAR MR. OBEY: All members of the House and Senate must certainly be aware by now of the VFW's outrage regarding the initiative to deprive veterans of the VA compensation to which they are now entitled for their smoking-related disabilities. It is for this reason that we strongly support and applaud your motion to instruct the Conferees to the Transportation Bill that no savings realized by prohibiting or reducing veterans service-connected disability compensation be used to offset spending for highway or transit programs.

This callous assault on veterans in need is made all the more egregious by the fact that the resulting savings are used to pay for pork barrel spending in the budget busting Transportation Bill. We emphasize our amazement and chagrin that the language to change the law and deny such VA compensation as contained in the Transportation Conference Report is in clear violation of House Rules. It clearly usurps the authority and jurisdiction of the Veterans' Affairs Committee. This action further violates House rules in that neither the House nor State version of this bill contains such a provision.

We are both incredulous and outraged that certain lawmakers would so distort and violate House rules for the sole purpose of denying veterans earned compensation. That the resultant savings are to be used to pay for excessive spending brought about by their own vote-buying pork is scandalous. The VFW salutes you for your courage in resisting this anti-veteran assault and pledge to work together with you in seeing its defeat.

Sincerely,

JOHN E. MOON,
Commander-in-Chief.

DISABLED AMERICAN VETERANS,
Washington, DC, May 20, 1998.

Hon. DAVID OBEY,
Ranking Democratic Member, House Appropriations Committee, Washington, DC.

DEAR REPRESENTATIVE OBEY: Veterans across this Nation are outraged that Congress would consider robbing veterans' disability compensation programs to fund an already bloated transportation program. Your effort to introduce a Motion to Instruct the House Conferees on H.R. 2400 not to use so-called ''savings'' from disability compensation for the highway fund is greatly appreciated.

On behalf of the more than one million members of the Disabled American Veterans (DAV), I commend you for your efforts to protect veterans and their dependents and survivors.

We will be calling upon all DAV and Auxiliary members to contact their elected officials to encourage their Representative to support your motion.

Thank you for your efforts on behalf of America's sick and disabled veterans.

Sincerely,

HARRY R. MCDONALD, Jr.,
National Commander.

VIETNAM VETERANS OF AMERICA, INC.,
Washington, DC, May 20, 1998.

Hon. DAVID OBEY,
Ranking Democratic Member, House Committee on Appropriations, Washington, DC.

DEAR REPRESENTATIVE OBEY: On behalf of the membership of Vietnam Veterans of America (VVA), I write to strongly support your motion to instruct the House conferees on H.R. 2400, related to the provision which would prohibit service-connected disability compensation for veterans with tobacco-related illnesses. VVA feels very strongly that this anti-veteran provision MUST be stricken from the ISTEA conference report.

The fact that Congress is considering taking $16 billion away from veterans compensation programs in order to increase spending in the Intermodal Surface Transportation and Efficiency Act (ISTEA) is an affront to every American who served in the military. And the fact that Congress may cut veterans disability compensation only days before the national celebration of Memorial Day is an outrage. This is outright disregard of the service and sacrifice made by these veterans and their families.

Holding a vote on your motion to instruct conferees is the only way we can put House members on record for making this choice—pork-barrel transportation projects versus veterans disability and health care programs. VVA strongly urges every member of the House of Representatives to vote for your motion, Mr. OBEY. Our members will look to this vote as a definitive indication of each elected House member's support for veterans—or lack of support.

VVA greatly appreciates your initiative and support on behalf of our nation's 25 million veterans and their families. We are very hopeful that you will prevail in this effort to insist that no provisions are included in the ISTEA conference report to prohibit or reduce service-connected veterans disability benefits.

Sincerely,

GEORGE C. DUGGINS,
National President.

AMVETS,
NATIONAL HEADQUARTERS,
Lanham, MD, May 20, 1998.

Hon. DAVID OBEY,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE OBEY: As you are already aware, there is an outrageous proposal to terminate benefits for service-connected disabled veterans to increase spending on pork barrel highway projects. We ask you to vigorously oppose this scheme.

AMVETS strongly supports your motion to instruct conferees on H.R. 2400 not to use veterans' money to pay for these highway projects. The Senate Budget Resolution and some members of the conference committee on Intermodal Surface Transportation Efficiency Act (ISTEA) want to create $10.5 billion in savings by eliminating compensation and resulting priority VA health care for veterans with illnesses associated with addiction to nicotine which occurred during military service.

Denying these benefits is an unprecedented move. But worse, many in the House and Senate want to use the $10.5 billion as offsets to increase highway spending above levels set last year in the Balanced Budget Act.

Supporters of this ''grab'' for veterans dollars have spread many false and misleading facts about the impact of terminating these service-connected benefits. This is not a new benefit and it will affect more veterans than just those suffering from smoking related illnesses. We see this as a way for the Department of Veterans Affairs to begin disallowing claims of other veterans like Atomic veterans, Agent Orange exposure and Persian Gulf illnesses. Think about it, if someone has lung cancer and the VA can show that he or she smoked, they can deny the claim because they believe the cancer was caused from smoking.

We ask you to strongly object to this proposal and we thank you for your support on this issue.

Sincerely,

JOSEPHUS C. VANDENGOORBERGH,
AMVETS National Commander.

NON COMMISSIONED OFFICERS ASSOCIATION OF THE UNITED STATES OF AMERICA,
Alexandria, VA, May 20, 1998.

Hon. DAVID OBEY,
Ranking Member, Committee on Appropriations, House of Representatives, Washington, DC.

DEAR MR. OBEY: The Non Commissioned Officers Association of the USA (NCOA) is writing to state its strong support for your Motion to Instruct House Conferees on H.R. 2400 to insist that no provisions to prohibit or reduce service-connected disability compensation to veterans for smoking-related illnesses be included to offset spending for highway or transit programs.

This Association is outraged that a veteran entitlement is proposed to be summarily taken away in order to offset a bill that is undeniably loaded with waste and election year politics. It is NCOA's understanding that veteran's disability compensation is not the only offset, and now estimated at $16 billion, that is under consideration. It is painfully clear that veterans have been once again, unfairly singled out and targeted.

NCOA salutes your leadership on the Motion to Instruct and this Association is dedicated to ensuring that the veteran offset is not a part of the conference report on H.R. 2400.

Sincerely,

LARRY D. RHEA,
Deputy Director of Legislative Affairs.

BLINDED VETERANS ASSOCIATION,
Washington, DC, May 20, 1998.

Hon. DAVID R. OBEY,
Rayburn House Office Building,
Washington, DC.

DEAR MR. OBEY: The Blinded Veterans Association (BVA), strongly supports your motion to instruct the House Conferees on H.R. 2400. This motion, to insist that no provisions to prohibit or reduce service-connected disability compensation to veterans for smoking-related illnesses, has our full backing. BVA deeply appreciates your efforts to protect Veteran's programs and services from the egregious offset contained in the conference report. It is outrageous that Veteran's programs are targeted at all for offsets for transportation. It is even more unconscionable to learn veterans are the only offset contained in the Report.

Again we applaud your motion and will do all we can to assure its adoption.

Very sincerely,

THOMAS H. MILLER,
Executive Director.

Mr. Speaker, I reserve the balance of my time.

Mr. PETRI. Mr. Speaker, I yield 1½ minutes to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, I thank both my colleagues from Wisconsin, because a bit of recent history may be in order here.

Mr. Speaker, I appreciate the efforts of my friend on the other side of the aisle, the gentleman from Wisconsin (Mr. OBEY), to restate what essentially we have done.

I would remind the House, Mr. Speaker, that in passing the rule for the authorization bill there was a self-executing amendment sponsored by myself, by the chairman of the Committee on Veterans' Affairs, the gentleman from Arizona (Mr. STUMP), and my colleague the gentleman from Washington (Mr. REDMOND) celebrating his one year anniversary of service in this House today.

Perhaps this will afford other Members who perhaps failed to vote for the rule an opportunity to join with us to stand firm to protect veterans' programs, as we stated in the rule. So, in that spirit of bipartisanship, if this would afford Members who avoided voting for the rule on authorization, if they want a second bite at the apple, well, that is fine, because it also restates the intent of a majority of us who have gone on record in this House with a vote to say absolutely, keep veterans' programs intact; do not even contemplate spending any of that money.

So, in that sense I am very grateful if Members from the other side want to join with us, and perhaps some of those Members have reconsidered their notion with the rule. So I say thank you, and I look forward to having so many other Members stand with us.

Mr. OBEY. Mr. Speaker, I yield myself one minute.

Mr. Speaker, I would simply say that despite that interesting rewrite of history on the rule, the fact is a good many of us, you bet, did vote against the rule on the highway bill because that rule provided for the consideration of a bill which spent over $200 billion without telling the country in the slightest where they were going to get the money to pay for the excess in that bill.

So the fact is, Mr. Speaker, that because that rule was self-executing, Members never had a chance to vote specifically on that provision. We are certainly giving them one now.

But do not kid yourself, the vote on the rule was cast against that rule by most Members of the House who voted against it because of our objection to the sleight-of-hand approach by which the committee was going to be able to bring a bill to the House floor without saying how its budget-busting was going to be paid for.

I make no apology whatsoever for the Members who voted against that rule. It was the right thing to do from the standpoint of protecting the taxpayers.

Mr. Speaker, I yield 30 seconds to the gentleman from Arizona.

Mr. HAYWORTH. Mr. Speaker, I want to state for the record that I am pleased so many want to join us again in restating our intent to say that veterans' funds are off limits. I have no quarrel with that with the gentleman, but, again, we may differ on our interpretations of history. I came to the well of this House and offered this amendment specifically for this reason. To the extent my friend wants to join me now and restate it in a motion to instruct conferees, I welcome that.

Mr. OBEY. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, again, I find that to be an irrelevancy. The fact is that my only concern with the gentleman's remarks relates not to his position on veterans' health care. It did relate to the gentleman's description of the vote against the rule, which was, in my view, a very large misdescription.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Illinois, (Mr. EVANS) the ranking Democrat on the Committee on Veterans' Affairs.

(Mr. EVANS asked and was given permission to revise and extend his remarks and include extraneous material.)

Mr. EVANS. Mr. Speaker, I rise in support of the motion offered by the gentleman from Wisconsin (Mr. OBEY).

Mr. Speaker, there are many reasons for my support for the motion to instruct the conferees on H.R. 2400, offered by the gentleman from Wisconsin, Mr. OBEY, the ranking Democratic member of the House Committee on Appropriations. These reasons include the following:

As approved by the House, H.R. 2400 contained a provision to prevent a reduction in or the elimination of any current veterans benefit to provide ''savings'' needed to pay for or offset an increase in spending for highways and transit programs authorized by H.R. 2400. The language of H.R. 2400 as approved by the House and the intent of the House on this issue is not in doubt.

Recently, the chairman of the House Veterans Affairs Committee, the gentleman from Arizona, BOB STUMP, and I sent a letter to Speaker GINGRICH, Minority Leader GEPHARDT and every House member of the Conference Committee on H.R. 2400. Twenty-two of our colleagues who are Members of the House Committee on Veterans Affairs joined us in sending those letters. I ask that the text of these letters be included in the RECORD as part of my statement.

Our letters to Speaker GINGRICH, Minority Leader GEPHARDT and every House member of the Conference Committee reaffirmed the provisions in H.R. 2400 as approved by the House which prevents a reduction in or the elimination of any current veterans benefit to provide ''savings'' needed to pay for highways and transit programs authorized by H.R. 2400.

Additionally, as our letters note, measures relating to veterans benefits under the rules of the House are, generally, within the jurisdiction of the Committee on Veterans' Affairs, not the Committee on Transportation and Infrastructure. I am sure the chairman of the Committee on Transportation and Infrastructure understands that the jurisdiction of that committee does not include veterans' matters.

Our country is the most wealthy nation on the face of the planet. We enjoy liberties and freedoms enjoyed by few others and envied by most. It is our Nation's veterans to whom we are all indebted for the freedoms we enjoy and too often take for granted. While I strongly support the reauthorization of the Intermodal Surface Transportation Efficiency Act of 1998, our Nation can pay for new roads without committing highway robbery of veterans benefits.

In recent weeks, an aggressive print and radio advertising campaign by leading veterans groups has pleaded with Congress to not ''rob our veterans again!'' to offset major spending increases for highway and transportation programs.

The concerns expressed by these veterans advocates are unfortunately all too real.

The Congressional Budget Office [CBO] has estimated that spending for veterans benefits will be reduced by $10.5 billion over the next 5 fiscal years by eliminating existing smoking-related disability benefits to veterans able to show they became addicted to nicotine while in the military. Terminating this benefit and using these ''savings'' to offset nonveteran major spending increases is, in plain terms, a money grab at the expense of veterans. And it stands a good chance of succeeding unless the Republican leadership takes action during negotiations over the long overdue highway bill in the coming days to prevent this daylight robbery.

Congress should reject a transportation funding approach which effectively ends an existing veterans benefit. With the Congressional Budget Office [CBO] projecting a surplus of as much as $63 billion for this fiscal year—instead of the $15 billion projected when the House approved its version of the highway bill—it's simply not necessary to eliminate a veterans' benefits to provide much-needed funds for roads and bridges.

If this daylight robbery is permitted to happen, sick and disabled veterans—unlike recipients of Social Security disability benefits—would no longer be eligible for compensation benefits for nicotine addiction and resulting illnesses. This, despite the undeniable role our Government and tobacco companies have played facilitating—if not encouraging—veterans to smoke during their military service.

Total cigarette sales soared in the 1940's. During what a 1949 Fortune magazine article called ''the war boom in cigarette demand,'' tobacco giant Philip Morris recorded record sales in the fiscal year ending March 31, 1945. Nearly one-third of its sales went to our Nation's Armed Forces.

As many as 75 percent of our World War II veterans began smoking during their military service, a number perhaps not surprising given that cigarettes were routinely distributed free of charge to members of the Armed Forces as part of their ''C-rations.'' Military exchanges sold cigarettes at dramatically reduced prices. From the time of the Civil War until 1956, the Army was required by law to provide a cheap and nearly endless supply of tobacco to its enlisted men.

During my own service as an enlisted Marine in the Vietnam-era, smoke breaks and ''smoke 'em if you got 'em'' was the way of military life.

Given this backdrop, it's not hard to understand how many veterans began smoking and developed an addiction to nicotine during their military service. In my view, and in the view of

many who served, they did so in large part because our Government and tobacco companies made cigarettes so accessible and easy to smoke.

But while common sense and the current public debate over tobacco would suggest that our Government should own up to its responsibilities to American veterans on this issue, Washington politics has unnecessarily clouded this issue for some Members of Congress.

In an era where most people are now willing to concede that the tobacco industry is at least partly to blame for marketing to vulnerable populations and for concealing the dangers of smoking from the public at large, some in Congress apparently believe America's veterans singularly had a unique ability to accurately foresee the consequences of their tobacco use. At a time when documents uncovered during recent tobacco litigation confirm long-held suspicions that for years big tobacco knowingly concealed the dangers of smoking from the public, the administration and some in Congress appear poised to take the hypocritical view that veterans—unlike other Americans—should have known better than to become addicted to nicotine during their military service.

Veterans deserve the benefit of the doubt, not the short end of the stick, on this issue. The conferees on the highway bill should stick to House language which, as Transportation Committee Chairman BUD SHUSTER (R-PA) says, ''does not touch veterans benefits.'' Veterans programs or benefits should not be used to offset spending increases in the highway bill. There are better ways to pave roads than to break the promises we as a nation have made to America's veterans.

Mr. PETRI. Mr. Speaker, I yield 2 minutes to our distinguished colleague, the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, it is always interesting, those that say they want to save taxpayer dollars, for 40 years big government, higher taxes, more spending. I even remember a $16 billion pork-barrel package when the Democrats were in power for parking garages in Puerto Rico and sickle fin fishes in dictionaries.

But that is not the issue at hand. The issue is veterans' health care. The FEHBP is a far bigger issue than to pay for smoking for our veterans. Right now, civilians have the right to a wrap-around program when they come under Medicare and they can take up FEHBP. The same person in an office in the Pentagon, a secretary gets that but someone in the military does not get FEHBP.

There is going to be a bill on the floor that really helps, instead of a Band-Aid, fix FEHBP. Many of us under the Watts-Moran bill want the $100 million the first year and then to be escalated. That takes away a Band-Aid fix.

If you are really interested in helping the military, let us not only vote for the manager's amendment, let us support it and let us increase it. That will add to TRICARE, it will help subvention, it will help Medicare for the military, and it will give them FEHBP which they should have gotten a long time ago. It is far more important than this in the transportation bill which some are demagoging.

Mr. OBEY. Mr. Speaker, I yield four minutes to the distinguished gentleman from Texas (Mr. EDWARDS), the former ranking member of the Subcommittee on Veterans' Health Care.

Mr. EDWARDS. Mr. Speaker, it is not good enough for Members of Congress to just honor veterans on Veterans Day and Memorial Day. We should honor them today, now, with this vote. Veterans may appreciate our speeches next week on Memorial Day, but today veterans need and they deserve our vote.

Today we have a choice. It is a clear choice. We can choose to defend veterans' health care programs or we can vote in a few moments to allow millions, if not billions of health care dollars going to veterans to be spent on our highway program. Personally, I think it would be a sad day if less than one week before Memorial Day this House votes to allow veterans' health benefits to be cut.

But, Mr. Speaker, the voice that needs to be heard today on the floor of this House is not my voice. The voice that deserves to be heard is the voice of our Nation's veterans.

Let me turn to several of the letters, some of which were referred to by the gentleman from Wisconsin (Mr. OBEY) in his comments.

First, the Vietnam Veterans of America said this: ''On behalf of the membership of Vietnam Veterans of America, I write to strongly support your motion to instruct the House conferees on H.R. 2400. The fact that Congress may cut veterans disability compensation only days before the national celebration of Memorial Day is an outrage. This is outright disregard of the service and sacrifice made by these veterans and their families.''

Signed by George Duggins, National President of Vietnam Veterans of America.

The Veterans of Foreign Wars of the United States, signed by Mr. John Moon, Commander-in-chief, said this: ''We are both incredulous and outraged that certain lawmakers would so distort and violate House rules for the sole purpose of denying veterans earned compensation.''

Mr. Speaker, let us listen to the voice of Disabled American Veterans, veterans who have continued to pay the price of war long after the ceasefire was concluded. Harry McDonald, National Commander of DAV, said this: ''We will be calling upon all DAV and Auxiliary members to contact their elected officials to encourage their Representative to support your motion,'' the Obey motion.

Mr. Speaker, let us listen to the Members of the American Legion, Anthony Jordan, National Commander: ''The American Legion fully supports,'' Mr. Obey, ''your motion to instruct House conferees on H.R. 2400. Your motion would uphold Congress' moral, ethical and legal responsibilities with regard to veterans service-connected injuries or illnesses that resulted from addiction to tobacco while serving in the armed forces.''

Let us listen to the voice, Mr. Speaker, of America's AMVETS. ''This is not a new benefit and it will affect more veterans than just those suffering from smoking-related illnesses.'' They go on in their letter to support Mr. Obey's motion.

Finally, let us hear from the voice of blinded Americans, the Blinded Veterans Association. Its director, Thomas Miller, said this: ''The Blinded Veterans Association strongly supports,'' Mr. Obey, ''your motion to instruct the House conferees on H.R. 2400.

□ 1800

''It is outrageous that veterans' programs are targeted at all for offsets for transportation. It is even more unconscionable to learn veterans are the only offset contained in the report.''

Mr. Speaker, I hope in a few moments the Members of this House, most of whom will go home to speak with veterans on Memorial Day, will listen now to the voices of our veterans who have served our country.

Mr. PETRI. Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, do I have the right to close?

The SPEAKER pro tempore (Mr. GIBBONS). The gentleman from Wisconsin (Mr. OBEY) has the right to close.

Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume.

Let me be very brief, and perhaps those speakers will not be back by the time I finish and we can wrap it up with concluding remarks.

Mr. Speaker, I want to report that the bipartisan leadership of our committee, the gentleman from Wisconsin (Mr. OBERSTAR) and the gentleman from West Virginia (Mr. RAHALL), as well as myself and the gentleman from Pennsylvania (Mr. SHUSTER), our chairman, have been working hard in a number of conference meetings, not of the full conference, but of the leadership of the full committee in the House and the other body. As the dean of my delegation knows, conferences are a very difficult thing involving a lot of give and take, and we appreciate the advice of our colleagues as we attempt to work things out. We certainly are very aware of the concern that we all share that we are fair to the veterans of our country.

The bill is close to being concluded, but not there. The amendment that has been offered, or the motion to instruct that has been offered before us is one that is helpful in that the structure of any offset has not been determined. There are negotiations going on with OMB and the other body and a variety of people to try to see if we cannot be sure that there are some improvements for our veterans in this bill if they are dealt with at all.

We were under instructions to try to stick within the budget agreement, not

use any offsets that could not be defended, and to minimize, to the extent we possibly can, offsets that the administration had indicated they were going to come forward with through their budget process for other programs.

In that spirit, we have cut back significantly on the size of this bill. When it passed the House it was at $217 billion, it is currently being contemplated and scored at about $200 billion over 6 years, all of which would come in gas tax revenue, paid at the pump for transportation by the American motorists. The actual scoring effort should mean that we would be within that figure, but still keep the principle that new money coming in in user fee revenues be used to try to make our highways more safe, save lives and improve our Nation's competitiveness.

Again, these motions can be offered to conferences. They have been offered in the past by members of my party when the roles were reversed, and we appreciate the concern that the motion represents, and it is a give and take process. We are going to do the best we can, but we are going to try to come back with a product at the end of the day that is an improvement over current law and that all Members will be proud to support.

Mr. Speaker, I yield back the balance of my time.

Mr. OBEY. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. OBEY) has 16 minutes remaining.

Mr. OBEY. Mr. Speaker, I do not intend to use all the time, but let me yield myself such time as I may consume to simply recount what is happening here.

When this bill first came to the floor, a number of us warned at the time that if the rule was adopted for the consideration of the bill, and if the bill was passed, we would set in motion a series of events that would be totally unpredictable. The bill did not tell us how the overage, above the amount allowed in the budget that this Congress so vociferously adopted last year, the bill did not tell us how that overage would be paid for; it left it silent. We warned at the time the bill was being considered that there were rumors that it would be paid for by reductions in veterans' health care; we warned that there were also rumors that it might be paid for, in part, by eliminating the President's education initiatives, and we urged Members not to vote for a bill until they knew where the money was coming from to pay for it. The House disregarded those warnings and they voted for the bill.

Now, we are being told by many sources that the conferees in fact do intend to pay for the excess above the amount allowed in last year's budget agreement by in fact directing scoring on this veterans' health care item, and therefore, they intend to pay for approximately $16 billion in highway funds by the same long-term cutbacks in veterans' health care. We are told that that is virtually the only item at this point that has been tentatively agreed to by the conferees.

Now, that is why we are bringing this motion, because we have moved from the general concern to the specific.

I would ask every Member of this House who cares about our commitment to veterans to vote for this motion, but I would ask the committee not to accept this motion if they intend to accept it, pat the House on the head, simply give Members a vote to cover their tails on veterans' health care issues, and then proceed to come back to the House with a bill that does something similar to what we are trying to prohibit in this motion.

If we intend to in fact reduce benefits for veterans, then do not, I would say to the committee, encourage Members to vote for this motion today. Let us play it on the square. This motion should be passed and the conferees should not, in fact, bring a bill back to the House which does violence to the instruction contained therein.

Mr. EDWARDS. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Texas.

Mr. EDWARDS. Mr. Speaker, if I could just ask the distinguished gentleman one question. In my 8 years in the House, I do not think there has been anything close to a proposed $15 billion cut in veterans' programs. I know the gentleman has been here a number of years longer than I have, and my question to the gentleman would be, in all of the years he has been in this body, has there ever been a proposal passed that would have cut as much as $15 billion out of veterans' health care programs?

To my knowledge, that has never occurred, and if that is true, what the gentleman is basically trying to stop today and what Members are going to vote on in just a minute is whether or not they want to allow the largest single cut in our time for veterans' health care benefits.

Mr. OBEY. Mr. Speaker, reclaiming my time, I would simply say to the gentleman from Texas, I certainly do not know of any time in the time that I have been in this Congress when we have even contemplated reducing veterans' benefits by such a large amount, and I would hope that we see nothing like that in the bill that is being reported by the committee, or that will be reported by the committee very shortly.

Mr. EDWARDS. Mr. Speaker, if the gentleman would further yield, I appreciate the gentleman's comments and his leadership in defending veterans programs.

Mr. OBEY. Mr. Speaker, if I could continue, I would simply say that I believe strongly in additional funds for highway construction. I have led the fight early and often, both in the legislature and in the Congress, for a greater commitment to transportation infrastructure development and certainly to highways. I take a back seat to no one in placing highways as a high priority on my scale, but they are not my only priority, and I certainly would not rank them above veterans' health care. I find it especially disturbing that these veterans' health care cuts apparently are being contemplated in order to pay for a record number of special projects for Members and their districts.

NOTICE OF INTENTION TO OFFER MOTION TO INSTRUCT ON H.R. 2400, BUILDING EFFICIENT SURFACE TRANSPORTATION AND EQUITY ACT OF 1998

Mr. OBEY. Mr. Speaker, before I yield back the remainder of my time, pursuant to clause 1(c) of House rule XXVIII, I hereby notify the House of my intention tomorrow to offer the following motion to instruct House conferees on H.R. 2400, Building Efficient Surface Transportation and Equity Act of 1998.

To wit: I move that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 2400, be instructed to limit the aggregate number of earmarked highway demonstration projects included in the conference report on H.R. 2400 to a number that does not exceed the aggregate number of such highway demonstration projects earmarked during the 42 years since the enactment of the Highway Trust Fund in 1956.

In other words, I do not believe that veterans' health care should be cut back in order to provide funding for the amount of highway projects which exceeds the total of all special projects provided in that bill in the 42 years since the enactment of the Highway Trust Fund.

Having given that notice, I would urge an ''aye'' vote on this motion.

Mr. RODRIGUEZ. Mr. Speaker, I rise in strong support for the Motion to Instruct Conferees offered by the gentleman from Wisconsin, Mr. OBEY.

This motion instructs BESTEA conferees not to cut benefits for veterans to pay for the transportation bill.

The House already agreed with this position last month when we passed H.R. 2400. Our version of BESTEA included language that called for any increased spending by conferees not change any veterans programs.

I believe in BESTEA. I voted for BESTEA. I think a strong transportation system is vital to our continued economic development and our national security.

However, we owe a debt to our veterans. We cannot let them down by denying currently available benefits to fund even the worthiest projects.

The transportation bill is not the place to modify veterans benefits. That is an issue under the jurisdiction of the Veterans' Affairs Committee. Any changes should be for the benefit of the veterans.

Over the last several months, the DAV, the VFW, the American Legion, and all of the major veterans' service organizations, have urged Congress to reject the VA's proposal to

deny service-connected disability compensation for disabilities related to tobacco use.

They want to know why service-connected disability compensation should be taken away from seriously ill veterans or their survivors. They want to know why these benefits are seen as a waste.

After all, these benefits are not just given to each and every veteran that smoked. Veterans must undergo a rigorous claims process to establish their entitlement to these benefits. So far, only 299 veterans even qualify for this benefit.

It is unfair to ask those who have already served to keep making sacrifices time and time again.

Veterans are already being asked to forego long overdue increases for veterans programs: increases in Montgomery GI funding to keep up with the rising costs of education; certain survivors' benefits; improved disability benefits.

What are we going to tell our veterans?

I urge passage of the motion.

Mr. ABERCROMBIE. Mr. Speaker, I rise in support of the Obey motion to instruct the highway authorization conferees not to allocate veteran program benefits to offset part of the cost of the highway bill.

We must recognize for the first time in 50 years the United States has realized a budget surplus. Although funding for the Social Security must be the highest priority, there should be sufficient funds for other important programs, such as the highway bill.

I am deeply concerned this provision is an attempt to make the benefits of those who have served us so well in our fight for the preservation of freedom a repository to be tapped. The military encouraged the tobacco habit by issuing cigarettes to its members as part of their rations. The Services encouraged the smoking habit before they knew the consequences of this action. This provision as written could deny veterans medical health care. So how can we, as a nation which cherishes its democracy, not take responsibility for our action. We must also recognize that the Veterans Administration is being deliberate in granting service connected compensation for tobacco related illnesses. Veterans must prove that the addiction to nicotine in these cases occurred prior to separation from the service. To date there have been approximately 9,000 claims for tobacco related illness and of those 9,000, 4,000 have been denied; and a maximum of 299 allowed.

We, as a nation owe a great debt of thanks to those who have served in our military and in return promised to provide for their medical needs for life. Let us not renege on our promise. Veterans did not question when they were asked to go into combat and risk their lives to defend this great nation and the value it still stands for. Veterans met the challenge laid before them and continue to contribute to the betterment of their communities. It is an egregious act to offset the BESTEA reauthorization bill on the backs of our faithful veterans who have defended us in our time of need. I support the Obey motion to instruct the BESTEA conferees to refrain in the use of the veteran compensation provision as an offset. To deny veterans compensation for tobacco related illness to pay for the transportation bill is an insult to those who stood in the gap; placing their lives on the line to preserve the freedom, this democracy, we so cherish.

Let us search for a solution that keeps promises we made to veterans.

Mr. OBEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Wisconsin (Mr. OBEY).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 422, nays 0, not voting 10, as follows:

[Roll No. 174]

YEAS—422

Abercrombie	Clement	Fowler
Ackerman	Clyburn	Fox
Aderholt	Coble	Frank (MA)
Allen	Coburn	Franks (NJ)
Andrews	Collins	Frelinghuysen
Archer	Combest	Frost
Armey	Condit	Furse
Bachus	Conyers	Gallegly
Baesler	Cook	Ganske
Baker	Cooksey	Gejdenson
Baldacci	Costello	Gekas
Ballenger	Cox	Gephardt
Barcia	Coyne	Gibbons
Barr	Cramer	Gilchrest
Barrett (NE)	Crane	Gillmor
Barrett (WI)	Crapo	Gilman
Bartlett	Cubin	Goode
Barton	Cummings	Goodlatte
Bass	Cunningham	Goodling
Becerra	Danner	Gordon
Bentsen	Davis (FL)	Goss
Bereuter	Davis (IL)	Graham
Berman	Davis (VA)	Granger
Berry	Deal	Green
Bilbray	DeFazio	Greenwood
Bilirakis	DeGette	Gutierrez
Bishop	Delahunt	Gutknecht
Blagojevich	DeLauro	Hall (OH)
Bliley	DeLay	Hall (TX)
Blumenauer	Deutsch	Hamilton
Blunt	Diaz-Balart	Hansen
Boehlert	Dickey	Hastert
Boehner	Dicks	Hastings (FL)
Bonilla	Dingell	Hastings (WA)
Bonior	Dixon	Hayworth
Bono	Doggett	Hefley
Borski	Dooley	Hefner
Boswell	Doolittle	Herger
Boucher	Doyle	Hill
Boyd	Dreier	Hilleary
Brady	Duncan	Hilliard
Brown (CA)	Dunn	Hinchey
Brown (FL)	Edwards	Hinojosa
Brown (OH)	Ehlers	Hobson
Bryant	Ehrlich	Hoekstra
Bunning	Emerson	Holden
Burr	Engel	Hooley
Burton	English	Horn
Buyer	Ensign	Hostettler
Callahan	Eshoo	Houghton
Calvert	Etheridge	Hoyer
Camp	Evans	Hulshof
Campbell	Everett	Hunter
Canady	Ewing	Hutchinson
Cannon	Farr	Hyde
Capps	Fattah	Inglis
Cardin	Fawell	Istook
Castle	Fazio	Jackson (IL)
Chabot	Filner	Jackson-Lee (TX)
Chambliss	Foley	Jefferson
Chenoweth	Forbes	Jenkins
Christensen	Ford	John
Clayton	Fossella	

Johnson (CT)	Mink	Sensenbrenner
Johnson (WI)	Moakley	Serrano
Johnson, E. B.	Mollohan	Sessions
Johnson, Sam	Moran (KS)	Shadegg
Jones	Moran (VA)	Shaw
Kanjorski	Morella	Shays
Kaptur	Murtha	Sherman
Kasich	Myrick	Shimkus
Kelly	Nadler	Shuster
Kennedy (MA)	Neal	Sisisky
Kennedy (RI)	Nethercutt	Skaggs
Kennelly	Neumann	Skeen
Kildee	Ney	Skelton
Kilpatrick	Northup	Slaughter
Kim	Norwood	Smith (MI)
Kind (WI)	Nussle	Smith (NJ)
King (NY)	Oberstar	Smith (OR)
Kingston	Obey	Smith (TX)
Kleczka	Olver	Smith, Adam
Klink	Ortiz	Smith, Linda
Klug	Owens	Snowbarger
Knollenberg	Oxley	Snyder
Kolbe	Packard	Solomon
Kucinich	Pallone	Souder
LaFalce	Pappas	Spence
LaHood	Parker	Spratt
Lampson	Pascrell	Stark
Lantos	Pastor	Stearns
Largent	Paul	Stenholm
Latham	Paxon	Stokes
LaTourette	Payne	Strickland
Lazio	Pease	Stump
Leach	Peterson (MN)	Stupak
Lee	Peterson (PA)	Sununu
Levin	Petri	Talent
Lewis (CA)	Pickering	Tanner
Lewis (GA)	Pickett	Tauscher
Lewis (KY)	Pitts	Tauzin
Linder	Pombo	Taylor (MS)
Lipinski	Pomeroy	Taylor (NC)
Livingston	Porter	Thomas
LoBiondo	Portman	Thompson
Lofgren	Poshard	Thornberry
Lowey	Price (NC)	Thune
Lucas	Quinn	Thurman
Luther	Radanovich	Tiahrt
Maloney (CT)	Rahall	Tierney
Maloney (NY)	Ramstad	Torres
Manton	Rangel	Towns
Manzullo	Redmond	Traficant
Markey	Regula	Turner
Martinez	Reyes	Upton
Mascara	Riggs	Velazquez
Matsui	Riley	Vento
McCarthy (MO)	Rivers	Visclosky
McCarthy (NY)	Rodriguez	Walsh
McCollum	Roemer	Wamp
McCrery	Rogan	Waters
McDade	Rogers	Watkins
McDermott	Rohrabacher	Watt (NC)
McGovern	Ros-Lehtinen	Watts (OK)
McHale	Rothman	Waxman
McHugh	Roukema	Weldon (FL)
McInnis	Roybal-Allard	Weldon (PA)
McIntosh	Royce	Weller
McIntyre	Rush	Wexler
McKeon	Ryun	Weygand
McKinney	Sabo	White
McNulty	Salmon	Whitfield
Meehan	Sanchez	Wicker
Meek (FL)	Sanders	Wise
Menendez	Sandlin	Wolf
Metcalf	Sanford	Woolsey
Mica	Sawyer	Wynn
Millender-McDonald	Saxton	Yates
Miller (CA)	Scarborough	Young (AK)
Miller (FL)	Schaefer, Dan	Young (FL)
Minge	Schaffer, Bob	
	Scott	

NOT VOTING—10

Bateman	Harman	Schumer
Carson	Meeks (NY)	Stabenow
Clay	Pelosi	
Gonzalez	Pryce (OH)	

☐ 1831

Messrs. GILCHREST, COBURN, GANSKE, and RIGGS changed their vote from ''nay'' to ''yea.''

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COMMUNICATION FROM STAFF MEMBER OF THE HON. STENY H. HOYER, MEMBER OF CONGRESS

The SPEAKER pro tempore (Mr. GIBBONS) laid before the House the following communication from Cory B. Alexander, staff member of the Hon. STENY H. HOYER, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 19, 1998.

Hon. NEWT GINGRICH,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that I have been served with a subpoena ad testificandum issued by the Superior Court of the District of Columbia, in the case of *Pointe Properties, Inc., et al.* v. *Michael J. Bevenour, et al.*, Case No. 96–CA–009720.

After consultation with the Office of General Counsel, I have determined that the subpoena relates to my official duties, and that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

CORY B. ALEXANDER.

TRIBUTE TO BILLY G. TURNER, PRESIDENT, GEORGIA WATER WORKS BOARD

(Mr. COLLINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS. Mr. Speaker, 4 years ago the Columbus, Georgia Water Works Board established the goal of having the best water system in the Nation by the year 2000. With the guidance and experience of its president, Billy G. Turner, that goal has been achieved.

On June 8, the EPA Regional Administrator will present Mr. Turner with the award for having the best large water treatment plant in the Southeast. In all, he has received seven other prestigious national, State and regional awards in 1998, including top national honors for design.

As recognized by the Columbus Ledger-Enquirer, they are doing more with less. Employees have been reduced without layoffs, and with a budget of $1 million less than last year. But most importantly, water rates have been kept at a lower rate than most comparable cities.

Due to Mr. Turner's work, dedication and innovation, he was appointed President of the International Water Environment Federation. I would like to commend Mr. Turner for his efforts. The City of Columbus and the State of Georgia are fortunate to have him.

Mr. Speaker, I also provide for the CONGRESSIONAL RECORD two recent articles from the Columbus Ledger-Enquirer about Mr. Turner and his outstanding work.

Mr. Speaker, just four years ago, the Columbus Water Works Board in the Third District of Georgia set out to have the best water system in the country by the year 2000. With the guidance and experience of its President, William Turner, that goal is being achieved. It takes many people to achieve the successes which have been reached by Columbus Water Works. But I rise today to single out and commend Mr. Turner for his outstanding leadership, vision, and commitment to water quality.

On June 8, Region IV Administrator for the Environmental Protection Agency John Hankinson will present Mr. Turner with the award for having the best large water treatment plant in the 10-state Southeast region. With seven prestigious national, state-wide, and regional awards in 1998, this is yet another honor for him in the water quality field.

Already, the Columbus combined sewer treatment and Riverwalk project earned top national honors for design from the American Academy of Environmental Engineers. Mr. Turner spearheaded the development of this new technology demonstration project which EPA estimated will save over $42 billion for small cities across the country.

In addition, Columbus has received the first ever award for wastewater collection and water distribution from the Georgia Water and Pollution Control Association. It was honored with a Gold award for being in 100 percent compliance with all regulations from the Association of Metropolitan Sewer Agencies. And, the Water Works was presented with a certificate of excellence by the Government Finance Officers Association.

And if that weren't enough, they are doing more with less. Currently, water works employees have been reduced without layoffs and are operating with a budget $1 million less than last year. In addition, water rates have been kept at a lower rate than most comparable cities. Most importantly though, the quality of water in the Columbus area has been greatly enhanced, something which has immeasurable value and importance not only to Columbus but to cities nationwide.

Mr. Turner's work has also garnered the respect of his peers and colleagues. His dedication and innovation also led to his appointment as President of the International Water Environment Federation, a term which he just completed.

I would like to extend my deepest thanks and congratulations to Mr. Turner, his wife Judee, his sons Rodney, Chris, and Jeff, and his two new grand-daughters. The City of Columbus and the State of Georgia are fortunate to have him.

Mr. Speaker, I am submitting for the CONGRESSIONAL RECORD two articles from The Columbus Ledger which were recently written about Mr. Turner and his outstanding work.

[From the Columbus Ledger, May 13, 1998]

DOING MORE FOR LESS

Much of our frustration with Atlanta's failure to get its water treatment act together comes from our own success. Fact is, the examples of innovativeness, effectiveness and efficiency set by the Columbus Water Works is a mixed blessing: On one hand, we can be proud of what has been recognized as one of the finest systems in the state and even the country; on the other, our familiarity with how it's done right makes us even less patient with seeing it done wrong.

The Water Works has received no fewer than seven national and regional awards this year, including the American Academy of Environmental Engineers' top honor for the CSO/Riverwalk project, the first of its kind in the country, and an EPA award for the best large water treatment plant in the 10-state Southeast region.

What makes the Water Works' success even more impressive is that a leaner operation is doing more. President Billy Turner notes that the budget is down by $1 million over the previous year, the staff is smaller and the rates still lower than those in comparable cities.

Turner and all the employees of the Columbus Water Works have a right to feel proud of what they've accomplished in the past couple of years. Here's hoping they keep up the good work.

[From the Columbus Ledger, May 12, 1998]

COLUMBUS WATER WORKS REAPS BENEFIT OF HARD WORK—NATIONAL, STATEWIDE; REGIONAL AWARDS PROVE COLUMBUS IS CLOSER TO REACHING GOAL

(By Amy Wolfford)

Four years ago, the Columbus Water Works board set out to have the best system in the country by the year 2000.

With seven national, statewide and regional awards this year, President Bill Turner said they are hitting that goal.

''These things are hard to come by,'' Turner told the board Monday. ''Most people go through their life and don't get this kind of recognition.''

Columbus' combined sewer treatment/Riverwalk project earned top national honors for design from the American Academy of Environmental Engineers.

The system, designed by Jodan, Jones & Goulding Inc. and completed in 1995, is the first of its kind in the United States and includes pipeline laid behind a retaining wall along the Chattahoochee River.

The board also learned it will get a U.S. Environmental Protection Agency award for having the best large water plant in a 10-state region in the Southeast.

Other awards include the following:

The Georgia Water and Pollution Control Association gave Columbus its first awards for wastewater collection and water distribution for large cities.

The South Columbus Water Resources facility was recognized with a Gold Award from the Association of Metropolitan Sewer Agencies for being in 100 percent compliance with all regulations.

The Government Finance Officers Association presented Columbus with its certificate of excellence.

MARRIAGE TAX ELIMINATION ACT

(Mr. WELLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELLER. Mr. Speaker, the question is pretty basic: Why should we pass the marriage tax elimination act. And I think the best way to answer that question is with a series of questions.

Do Americans feel that it is fair that the average married working couple pays more in taxes just because they are married?

Do Americans feel that it is fair that 21 million married working couples with two incomes pay more in taxes than an identical working couple that lives together outside of marriage, in fact, on average $1,400 more?

Is it right that our Tax Code actually provides an incentive to get divorced? That is the only way that you can avoid the marriage tax penalty today.

It is not fair, it is not right, it is absolutely wrong that our Tax Code punishes 21 million married working couples just because they are married.

Now $1,400 in the south suburbs of Chicago, that is real money. That is 1 year's tuition at Joliet Junior College. That is 3 months of day-care at a local day-care center. That is real money for real people in Illinois in the south suburbs.

There is no more unfair provision in the Tax Code. Let us eliminate the marriage tax penalty. Let us eliminate it now.

Mr. WELLER. Mr. Speaker, I rise today to highlight what is arguably the most unfair provision in the U.S. Tax code: the marriage tax penalty. I want to thank you for your long term interest in bringing parity to the tax burden imposed on working married couples compared to a couple living together outside of marriage.

In January, President Clinton gave his State of the Union Address outlining many of the things he wants to do with the budget surplus.

A surplus provided by the bipartisan budget agreement which: cut waste, put America's fiscal house in order; and held Washington's feet to the fire to balance the budget.

While President Clinton paraded a long list of new spending totaling at least $46–$48 billion in new programs—we believe that a top priority should be returning the budget surplus to America's families as additional middle-class tax relief.

This Congress has given more tax relief to the middle class and working poor than any Congress of the last half century.

I think the issue of the marriage penalty can best be framed by asking these questions: Do Americans feel its fair that our tax code imposes a higher tax penalty on marriage? Do Americans feel its fair that the average married working couple pays almost $1,400 more in taxes than a couple with almost identical income living together outside of marriage? is it right that our tax code provides an incentive to get divorced?

In fact, today the only form one can file to avoid the marriage tax penalty is paperwork for divorce. And that is just wrong!

Since 1969, our tax laws have punished married couples when both spouses work. For no other reason that the decision to be joined in holy matrimony, more than 21 million a year are penalized. They pay more in taxes than they would if they were single. Not only is the marriage penalty unfair, it's wrong that our tax code punishes society's most basic institution. The marriage tax penalty exacts a disproportionate toll on working women and lower income couples with children. In many cases it is working women's issue.

Let me give you an example of how the marriage tax penalty unfairly affects middle class married working couples.

For example, a machinist, at a Caterpillar manufacturing plant in my home district of Joliet, makes $30,500 a year in salary. His wife is a tenured elementary school teacher, also being home $30,500 a year in salary. If they would both file their taxes as singles, as individuals they would pay 15%.

MARRIAGE PENALTY EXAMPLE IN THE SOUTH SUBURBS

	Machinist	School Teacher	Couple	Weller/McIntosh II
Adjusted Gross Income	$30,500	$30,500	$61,000	$61,000
Less Personal Exemption and Standard Deduction	$6,550	$6,550	$11,800	13,100 (Singles x 2)
Taxable Income	$23,950	$23,950	$49,200	$47,900
	(x .15)	(x .15)	(Partial x .28)	(x .15)
Tax Liability	$3592.5	$3592.5	$8563	$7,185
		Marriage Penalty	$1378	Relief $1378

Weller-McIntosh II Eliminates the Marriage Tax Penalty

But if they chose to live their lives in holy matrimony, and now file jointly, their combined income of $61,000 pushes them into a higher tax bracket of 28 percent, producing a tax penalty of $1400 in higher taxes.

On average, America's married working couples pay $1,400 more a year in taxes than individuals with the same incomes. That's serious money. Millions of married couples are still stinging from April 15th's tax bite and more married couples are realizing that they are suffering the marriage tax penalty.

Particularaly if you think of it in terms of: a down payment on a house or a car, one year's tuition at a local community college, or several months worth of quality child care at a local day care center.

To that end, Congressman DAVID MCINTOSH and I have authored the Marriage Tax Penalty Elimination Act.

The Marriage Tax Penalty Elimination Act will increase the tax brackets (currently at 15% for the first $24,650 for singles, whereas married couples filing jointly pay 15% on the first $41,200 of their taxable income) to twice that enjoyed by singles; the Weller-McIntosh proposal would extend a married couple's 15% tax bracket to $49,300. Thus, married couples would enjoy an additional $8,100 in taxable income subject to the low 15% tax rate as opposed to the current 28% tax rate and would result in up to $1,053 in tax relief.

Additionally the bill will increase the standard deduction for married couples (currently $6,900) to twice that of singles (currently at $4,150). Under the Weller-McIntosh legislation the standard deduction for married couples filing jointly would be increased to $8,300.

Our new legislation builds on the momentum of their popular H.R. 2456 which enjoyed the support of 238 cosponsors and numerous family, women and tax advocacy organizations. Current law punishes many married couples who file jointly by pushing them into higher tax brackets. It taxes the income of the families' second wage earner—often the woman's salary—at a much higher rate than if that salary was taxed only as an individual. Our bill already has broad bipartisan cosponsorship by Members of the House and a similar bill in the Senate also enjoys widespread support.

It isn't enough for President Clinton to suggest tax breaks for child care. The President's child care proposal would help a working couple afford, on average, three weeks of day care. Elimination of the marriage tax penalty would give the same couple the choice of paying for three months of child care—or addressing other family priorities. After all, parents know better than Washington what their family needs.

We fondly remember the 1996 State of the Union address when the President declared emphatically that, quote ''the era of big government is over.''

We must stick to our guns, and stay the course.

There never was an American appetite for big government.

But there certainly is for reforming the existing way government does business.

And what better way to show the American people that our government will continue along the path to reform and prosperity than by eliminating the marriage tax penalty.

Ladies and Gentlemen, we are on the verge of running a surplus. It's basic math.

It means Americans are already paying more than is needed for government to do the job we expect of it.

What better way to give back than to begin with mom and dad and the American family—the backbone of our society.

We ask that President Clinton join with Congress and make elimination of the marriage tax penalty . . . a bipartisan priority.

Of all the challenges married couples face in providing home and hearth to America's children, the U.S. tax code should not be one of them.

Let's eliminate The Marriage Tax Penalty and do it now!

WHICH IS BETTER?

Note: The President's Proposal to expand the child care tax credit will pay for only 2 to 3 weeks of child care. The Weller-McIntosh Marriage Tax Elimination Act, HR 2456, will allow married couples to pay for 3 months of child care.

WHICH IS BETTER, 3 WEEKS OR 3 MONTHS?

CHILD CARE OPTIONS UNDER THE MARRIAGE TAX ELIMINATION ACT

	Average Tax Relief	Average Weekly Day Care Cost	Weeks Day Care
Marriage Tax Elimination Act	$1,400	$127	11
President's Child Care Tax Credit	358	127	2.8

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

QUESTIONS ABOUT THE ISTOOK AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. EDWARDS) is recognized for 5 minutes.

Mr. EDWARDS. Mr. Speaker, probably not many Members are aware of this but perhaps the first day after our return from Memorial Day recess, the gentleman from Oklahoma (Mr. ISTOOK) will make an effort to do something that has never been done in the

history of the United States. On that Wednesday when we return he will move that we vote on a constitutional amendment, for the first time in the history of our country, to amend the Bill of Rights, not only the Bill of Rights but the first 16 words of the First Amendment of the Bill of Rights designed to defend religion against intrusion by the Federal Government.

Mr. Speaker, I have spoken previously from the well of this House outlining that the arguments in favor of this constitutional amendment are really based on false premises. The premise that there is no religion in school, that somehow government and liberal Federal judges have taken religion out of our schools when, in fact, Time Magazine recently documented that there are thousands of public schools all over America that have bible worship groups and religion prayer groups both before and after school. The fact is that prayer is allowed in America's public schools, as long as that prayer is not prescribed by government officials or forced upon students involuntarily.

I have talked about all of these issues and I have talked about the downside of some of the things that could happen under the Istook amendment. What I would like to do with just several days left before we have this historic vote on the floor of the House is to raise some questions that I hope the gentleman from Oklahoma (Mr. ISTOOK) and supporters of this effort to amend our Nation's Bill of Rights would be willing to answer before we have this vote. Let me just list some of these kinds of questions that, as of the debate so far, have been left unanswered.

First, under the Istook amendment, who will decide which religious prayers are heard in a public forum? Who will determine what prayers are said in the classroom? Second, will 9-year-old students in public classes be deciding which prayers are heard? Third, would the determination of which prayers are said be based on the percentage of students in that religion at a particular school in that community or that State? Or would that decision be made by a committee of students, perhaps 9-year-olds, perhaps 10-year-olds to select prayers. Fourth, who would ensure that minorities are not excluded from offering their public prayers in school and over the PA system? What if a committee, for example, of students decides that a Jewish prayer or another prayer simply will not be allowed? Who will protect the rights of minorities in such a majority rule situation? Will it be first graders and second graders and third graders in our public school classrooms that will be forced to defend the constitutional rights as outlined in our First Amendment by our Founding Fathers? If not, the alternative is to allow government officials, teachers, administrators to make that decision of which prayers will be allowed and which rules will be used.

Next I would ask this question: Would a Satanic prayer be allowed in the public school classrooms under the Istook amendment? Would the Santerias, defined by our courts as a religion in America, be allowed to participate in their prayer ritual in our schools, part of which concerns or part of which includes animal sacrifices? Will that be allowed in the third grade classrooms of America's schools? If not, will it be the teachers or school administrators or government officials deciding which prayer ritual is okay and which is not?

The next question I would raise is, would this amendment prevent a teacher from proselytizing his or her students? Additionally, I do not see anything in the Istook amendment that would prohibit outside religious groups from proselytizing young children, including first graders, on public school grounds. It seems to me that under the Istook amendment, the experience that many of us have in our Nation's airports, being accosted by religious groups and sometimes religious cults, is going to be replicated on thousands of public school grounds all over America.

That is the question that the gentleman from Oklahoma (Mr. ISTOOK) and the proponents of this effort to, in my opinion, massacre the Bill of Rights and the First Amendment thereof have an obligation to answer before we cast this historic vote in a couple of weeks.

Next question, will a wiccan be able to hold a ceremony in a public school cafeteria? It appears from the language of the Istook amendment the answer to that would be yes. Next question, will students be able to read Satanic prayers over the PA system in our public schools every morning? Next, will judges be allowed to lead juries in prayer before consideration of a court case? If so, would a judge be allowed to recite the bible and the verse that talks about an eye for an eye or a tooth for a tooth before the jury makes its decision?

All of these unanswered questions ought to be answered by the supporters of the Istook amendment before we vote to amend the Bill of Rights.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. HUTCHINSON) is recognized for 5 minutes.

(Mr. HUTCHINSON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.

HALTING THE NUCLEAR ARMS RACE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from American Samoa (Mr. FALEOMAVAEGA) is recognized for 5 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, last week India, the world's largest democracy, conducted five nuclear weapons tests setting off a barrage of international criticism led by our own Nation. It is feared that a South Asian nuclear arms raise with Pakistan shall have global implications, encouraging North Korea, Iran, Iraq, Libya and others to pursue nuclear ambitions.

Days ago, former President Jimmy Carter addressed the issue of India's nuclear tests in commencement speeches he delivered at Trinity College at the University of Pennsylvania. I found President Carter's remarks, as reported by the news wires, to be very enlightening and wanted to share them with my colleagues.

President Carter, the last American President to visit India, noted that the United States, a country that possesses thousands of nuclear weapons, fails to ratify a comprehensive test ban treaty and continues to deploy land mines is hardly one that has the right to demand the opposite from other nations such as India.

Pointing out the hypocrisy of U.S. nuclear policy, Mr. Carter stated, ''It is hard for us to tell India you cannot have a nuclear device, while maintaining we will keep our nuclear weapons, 8,000 or more nuclear bombs, and we are not ready to reduce them yet.''

Mr. Carter continued, ''We claim we are for a comprehensive test ban to prevent all testing of nuclear weapons, but we still have not ratified the treaty. We claim we want to reduce nuclear arsenals,'' said Mr. Carter, ''but many years later the START II treaty is still not in effect with Russia.''

In expressing concern about India's nuclear tests, Mr. Speaker, President Carter further states, ''People look to the United States with great admiration but also for guidance. We have not been fair in trying to keep people from developing nuclear weapons.''

President Carter concluded, ''If the United States wishes to halt the global arms raise, they must lead by example and not by condemnation.''

Mr. Speaker, President Carter's points are well taken. Many around the world are starting to conclude India's nuclear tests are in great part a direct result of the failure of the United States and the other four members of the nuclear club to seriously move forward towards nuclear disarmament.

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Yesterday, at the United Nations, Secretary General Kofi Annan stated that, ''Our senses have been lulled a little bit with regard to the nuclear danger, but I think what has happened in India has woken everybody up.'' In discussing India and Pakistan, Annan said the five self-declared nuclear powers, the United States, Britain, France, Russia, and China, must take stock of their positions because, and I quote, ''You cannot have an exclusive club who have nuclear weapons and are refusing to disband it and tell them now not to have it. The nuclear powers need to set an example for other nations.''

Mr. Dan Plesch, the director of the British-American Security Information Council, an arms control group, has asked, ''How much longer can we hang on to our own nuclear weapons while trying to prevent others from getting them? Either we say nuclear deterrence is goods for all, or we carry out a realistic program to ban nuclear weapons.''

Mr. Speaker, in a world discriminating between nuclear haves and have-nots, there will always be the temptation for nuclear proliferation. Clearly, global nuclear disarmament is the only real solution to this madness.

In 1975, the international community, including the nuclear powers, outlawed the development, production, stockpiling and the use of biological agents for warfare through the Biological and Toxin Weapons Convention. In 1977, the international community supported the coming into force of the Chemical Weapons Convention, which likewise prohibited the development, production and use of chemical weapons throughout the world.

Mr. Speaker, because of their horrific and destructive nature, biological and chemical weapons have been declared immoral and illegitimate, and are not to be tolerated. However, Mr. Speaker, there is no weapon of mass destruction that is more horrific, more destructive or more deadly than nuclear weapons. The argument for the elimination of this incomprehensibly monstrous force that threatens the world's inhabitants and our very planet is self-evident.

It is time, Mr. Speaker, that the nuclear powers negotiate a nuclear weapons convention that requires the phased elimination of all nuclear weapons within a time frame incorporating verification and enforcement provisions. We cannot afford to squander the dangerous wake-up call sent by India's recent nuclear tests.

Mr. Speaker, I submit for the RECORD two news articles regarding this topic:

[The Wall Street Journal, May 19, 1998]

HYPOCRISY IS THE HALLMARK OF THE NUCLEAR FLAP

(By George Melloan)

At the wind-up of the G–8 summit in Birmingham Sunday, French President Jacques Chirac issued a stern warning to Pakistan: If you dare to test a nuclear weapon, the G–8 will use a communiqué ''exactly identical to the one we put out on India.''

By ''exactly identical,'' which probably sounds less redundant in French, he meant that the G–8 would ''express our grave concern.'' That's what the G–8 lashed India with, so Pakistan had better watch out. No doubt the Paks reacted privately with the same degree of amusement that the Indians were unable to suppress over the posturing by the leaders of ''the world's eight leading nations'' in response to India's tests.

There is of course nothing funny about nuclear weapons, but the grandstanding in Birmingham had elements of comedy. The assemblage—relying no doubt on the same superb intelligence that had keep them all in the dark about India's testing plans—at one point was led to believe that even during their debate Pakistan had exploded a bomb somewhere. Had someone not set them straight, they might have fired that exactly identical ''grave concern'' communiqué at Karachi prematurely. The Paks were doing their best, with differing statements from different officials, to confuse the world about whether they in fact will match the tests by their neighboring archenemy.

Russian President Boris Yeltsin was among the summiteers expressing ''grave concern.'' He has been allowed to join the Group of Seven (G–7) leading member nations of the International Monetary Fund, so it now is routinely called the G–8. He can't mix in economic deliberations because Russia is on the IMF dole, but his country still is taken seriously as a military power. That may be because it has 877 nuclear ICMBs, able to strike anywhere in the world. That statistic is from that latest ''Military Balance'' published by London's International Institute for Strategic Studies (IISS) and doesn't begin to cover Russia's total capability. Many of its missiles have multiple warheads and it also has 452 submarine-based nukes. Mr. Yeltsin's grave concern apparently doesn't extend to preventing Russian nuclear and missile technology from leaking to would-be nuclear states, if U.S. suspicions are correct.

The world's most populous nation, China, has more than 17 intercontinental and more than 38 intermediate-range nukes, according to the IISS estimate. It also has been accused by the U.S. of selling missile technology to Pakistan among others. And it also has tested its nukes when it pleased, thumbing its nose at the world at large. But Bill Clinton is so friendly with the Chinese that in 1996 he was willing to overrule State Department objections to letting them launch U.S.-made space satellites despite the danger of giving them valuable missile technology, according to reports in the New York Times over the weekend. He also seems to have been less than assiduous about preventing the Chinese from insinuating themselves into the U.S. political process through violations of the U.S. campaign finance laws, judging from testimony by erstwhile go-between and frequent White House visitor Johnny Chung made public last week.

Given the way the American president treats the two big non-NATO nuclear powers, should it be any surprise that Indian Prime Minister Atal Behari Vajpayee decided to go public with India's nukes? His BJP Hindu nationalist party leads a shaky new governing coalition and he smelled added popularity from showing that Indian can ''stand up,'' as Mao would have put it. He may have been right. TV footage showed Indians dancing in the streets on hearing the news. Beware of TV scenes, which often are staged, but it is not unbelievable that Indians might think that becoming the world's sixth declared nuclear nation will finally win them some respect.

It hasn't so far, of course. Mr. Clinton's reaction was to slap on sanctions, cutting off U.S. direct aid and threatening to veto further help from the IMF and the World Bank. But it's early times, and Mr. Vajpayee is smart enough to know that a cutoff of outside aid might be just the thing to help him with the politics of installing policies, such as opening the country up to more foreign investment, that will allow India to develop on its own. Just being noticed by those big-time guys in Birmingham, and the folks next door in China, he might figure, is almost worth the cost of losing handouts from the U.S., Japan, Canada, Australia and Germany, the countries that have applied sanctions.

What truly upset the folks in Birmingham, and Mr. Clinton especially, was not the fear that India will now shoot nuclear missiles at its neighbors. Two of those neighbors, China and Russia, could annihilate India in response and Pakistan, probably, could at least retaliate in kind. What troubles the leaders, and much of the global intellectual community, is this further evidence that arms control treaties do not control the spread of modern arms. The two Strategic Arms Limitation Treaties of the Cold War were full of holes and the Russian parliament has not ratified the successor, START II. In the CFE deal limiting conventional weapons in Europe, the U.S.S.R. got a loophole excluding ''naval'' troops, of which it turned out to have had quite a number who had never set foot on a ship. Iraq has not been at all inhibited by chemical and biological weapons limitations.

Attempting to apply nuclear controls internationally has run afoul of realities. We live in a world of nation states. Those states that do not feel threatened, do not want the expense of nukes and want to enjoy a pretense of virtue, have readily signed onto the antiproliferation and test-ban treaties. India and Pakistan, living in a rough neighborhood unprotected by NATO or other alliances, have put national security ahead of niceties. It's too bad, but that's the way it is.

Bill Clinton had every right to be shocked at this latest mugging by reality. He heads what some choose to call the world's most powerful nation. But it has no defense against nuclear missiles. In the harsh equation of war, the U.S.'s very wealth works against it should it ever be threatened by a poor country with nuclear missiles. It would have a lot more to lose, and even if it suffered a limited attack it would be reluctant to use its vast might against the impoverished masses of the attacking country. Maybe Mr. Clinton should think more about U.S. security.

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[From the New York Times, Tues., May 19, 1998]

KEEPING NUCLEAR ARMS IN CHECK

India's nuclear weapons test threaten to undo 35 years worth of work by the United States and other countries to limit the spread of nuclear arms. Instead of abandoning those efforts and improvising new approaches, a course recommended by some arms control experts, Washington and its allies should redouble their commitment to make the international control system work effectively.

As difficult as it may be, India and Pakistan must be persuaded to sign and abide by the 1996 test ban treaty that has now been signed by 149 nations. By joining the treaty, India and Pakistan would bind themselves to refrain from any future testing. Their inclusion would also make it easier to detect violations by permitting the installation of monitoring equipment at their nuclear test sites.

Enlisting India and Pakistan would be easier if the Senate ratified the test ban treaty, now irresponsibly held up by Senator Jesse Helms. Once again, the capricious chairman of the Foreign Relations Committee is holding the nation's interest hostage to his ideological whims. Ratification would allow Washington to participate in a review conference next year that will develop diplomatic strategies for bringing holdout nations into the treaty. Without American leadership, the treaty itself and the conference will be empty exercises.

The performance of American intelligence agencies should also be improved so that future test preparations by any country can be spotted in advance, giving diplomats the chance to intervene. The White House was given no warning about the Indian underground explosions. Some of the $400 million a year the Energy Department now spends on

nuclear weapons detection research ought to be used to develop sensitive seismic measuring devices that can monitor low-yield tests from afar.

Non-nuclear countries are more easily dissuaded from developing atomic weapons when nuclear states restrain their own arsenals. Progress in this area has been slowed in recent years. Russia's parliament should long ago have ratified the nuclear missile cuts negotiated more than five years ago by George Bush and Boris Yeltsin.

If Bill Clinton does not want nuclear anarchy to be his foreign policy legacy, he must galvanize the Senate to act on the test ban treaty and use American influence to strengthen the world's arms control mechanisms. Without them, this planet would be a far more dangerous place.

U.S. SECURITY FOR SALE

The SPEAKER pro tempore (Mr. GIBBONS). Under a previous order of the House, the gentleman from Colorado (Mr. MCINNIS) is recognized for 5 minutes.

Mr. MCINNIS. Mr. Speaker, as we know, India is one of the largest democracies in the world. China is the largest communist country in the world. President Clinton has taken the time to condemn the largest democracy, one of the largest democracies in the world, India, for developing or testing nuclear weapons to defend themselves against the largest communist country in the world, China.

While the President condemns India, what does the President do with China? Let me quote from a couple of articles here:

''Clinton made a decision to overrule his own Secretary of State and ease the exportation of satellite technology to China in 1996. The Justice Department also is investigating whether two satellite companies, Loral and Hughes Electronics, violated the national security laws in 1996 by giving satellite technology to China that could be used for nuclear missiles.''

Remember, China, the largest communist country in the world. This is our President in his negotiations with that country.

Both firms are big Democrat donors. Loral chief, Mr. Schwartz, was the Democrats' biggest single donor in 1995–96, giving more than $600,000.

Let me quote from U.S. Security for Sale. That is the article. It is an essay by William Safire. U.S. Security for Sale. Essay. Washington:

''A President hungry for money to finance his reelection overruled the Pentagon; he sold to a Chinese military intelligence front the technology that defense experts argued would give Beijing the capacity to blind our spy satellites and launch a sneak attack. How soon we have forgotten Pearl Harbor.

''October 1996 must have been some tense months for the Democratic fundraisers. The New York Times, Wall Street Journal and the Los Angeles Times had begun to expose the Asian connection of John Huang and Indonesia's Riady family to the Clinton campaign.

''The fix was already in to sell the satellite technology to China. Clinton had switched the licensing over to Ron Brown's anything-goes Commerce Department. Johnny Chung had paid up. Commerce's Huang had delivered money big time (though one of his illegal foreign sources had already been spotted). The boss of the satellite's builder had come through as Clinton's largest contributor.

''But public outrage was absent. The FBI didn't read the papers and Reno Justice did not want to embarrass the President. And television news found no pictorial values in the Asian connection. Stealthily, the Clinton administration held back the implementation of the corrupt policy until November 5, the day the campaign ended.

''Now the reporting of Jeff Gerth and the Times' investigative team is putting the spotlight of pitiless publicity on the sellout of American security.

''We begin to see how the daughter of China's top military commander steered at least $300,000 through the Chung channel to the Democratic National Committee. (Apparently Mr. Chung skimmed off a chunk and may be spilling his guts lest he have to face his Beijing friends.)

''We begin to learn more of the February 8, 1996, visit of the arms dealer Wang Jun to the Commerce office of Ron Brown, and Wang's 'coffee' meeting that day with the President, the very day that Clinton approved four Chinese launches, even as China was terrorizing Taiwan with missile tests.

''Clinton's explanation, which used to slyly suggest that China policy was not changed 'solely' by contributors, has now switched to total ignorance; shucks, we didn't know the source of the money. But this President's Democratic National Committee did not know because it wanted not to know; procedures long in place to prevent the unlawful flow of foreign funds were uprooted by the money-hungry Clintonites.

''Today, 2 years after this sale of our security, comes the unforeseen chain reaction; as China strengthens its satellite missile technology, a new Indian Government reacts to the growing threat from its longtime Asian rival and joins the nuclear club. In turn, China feels pressed to supply its threatened ally, Pakistan, with weaponry Beijing promised us not to transfer. This makes Clinton the proliferation President.

''Who has helped keep this sellout of security under wraps?''

Let me just conclude by saying this. India is one of the largest democracies in the world. China is the largest communist country. And I hope every citizen of this country takes the time to read about the technology that was transferred to China through this administration. It is a critical security issue.

Mr. Speaker, the remainder of the article by William Safire, is as follows:

''In the Senate, John Glenn was rewarded with a space flight by Clinton for derogating the leads to China of the Thompson committee. Fred Thompson's warnings about China's plan to penetrate this White House were then scorned by Democratic partisans; his Government Operations Committee should now swarm all over this.

The House's aggressive agent of the Clinton cover-up, Henry Waxman of California, is finally ''troubled'' by the prospect of damning evidence he prevented the Burton committee from finding. At least three Democratic partisans who foolishly followed Waxman in blocking the testimony of Asian witnesses may have difficulty explaining their cover-up vote to even more troubled voters in their districts.

The Gerth revelations lead to more questions: Where were the chiefs of the C.I.A. and the National Security Agency, their intelligence so dependent on satellites, on the satellite technology sale to China?

Is anybody at Reno Justice reexamining testimony taken by independent counsel investigating corruption at Commerce before Ron Brown's death? Does Brown's former lawyer claim ''dead man's privilege'' on notes? Did N.S.A. tape overseas calls of suspect Commerce officials? Who induced Commerce to lobby Clinton for control of satellite technology?

And the most immediate: Will homesick prosecutor Charles LaBella, beholden to Janet Reno for his political appointment in San Diego, dare to offend his patron by calling for independent counsel?''

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HINCHEY) is recognized for 5 minutes.

(Mr. HINCHEY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. FRANKS) is recognized for 5 minutes.

(Mr. FRANKS of New Jersey addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Hawaii (Mr. ABERCROMBIE) is recognized for 5 minutes.

(Mr. ABERCROMBIE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. SMITH) is recognized for 5 minutes.

(Mr. SMITH of Michigan addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. COYNE) is recognized for 5 minutes.

(Mr. COYNE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. ISTOOK) is recognized for 5 minutes.

(Mr. ISTOOK addressed the House. His remarks will appear hereafter in the Extension of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina (Mrs. CLAYTON) is recognized for 5 minutes.

(Mrs. CLAYTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. RIGGS) is recognized for 5 minutes.

(Mr. RIGGS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

VETERANS TRANSITIONAL HOUSING OPPORTUNITIES ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FOX) is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I rise tonight to address my colleagues on two important veterans issues.

There is a national veterans problem. According to the Department of Veterans Affairs, approximately one in three homeless Americans are military veterans, an estimated 250,000 men and women.

According to VA reports, homeless veterans overwhelmingly suffer from serious psychiatric or substance abuse disorders. Numerous studies have shown that destructive, addictive behavior and homelessness are inexorably linked. Chemical dependency, posttraumatic stress disorder and chronic physical problems affect a high percentage of homeless veterans. Approximately 75 percent of homeless veterans have a problem with alcohol and drugs, a rate of abuse higher than their nonvet counterparts, according to providers of services to homeless veterans.

A shortfall of transitional housing for homeless veterans exists because Federal programs targeted specifically at these veterans currently serve only a fraction of those in need. To accommodate an estimated 250,000 homeless veterans, the VA has fewer than 5,000 transitional-type beds under contract or as part of its domiciliary program for homeless veterans.

Our House Committee on Veterans' Affairs believes the most effective method of reducing the revolving door syndrome plaguing the VA health care system is to ensure that veterans are being discharged to residences offering a highly structured, long-term housing program that requires sobriety, accountability and assistance in finding employment.

The solution, Mr. Speaker, can be found in the Veterans Transitional Housing Opportunities Act, which I am proud to say that the House overwhelmingly voted for yesterday. This bill establishes a pilot program at the Department of Veterans Affairs to guarantee loans to community-based organizations that serve homeless veterans.

The intent of the bill is to expand the supply of transitional housing for homeless veterans by authorizing the Veterans Affairs Secretary to guarantee loans for long-term transitional housing projects. I urge the U.S. Senate to take quick action to approve this important bill, and I thank the chairman, the gentleman from Arizona (Mr. STUMP), for his hard work in bringing this bill to the floor and authoring same.

I also bring to the attention of my House colleagues, Mr. Speaker, the fact that we have approved wisely the Obey motion to make sure that we reject any cuts in veterans' benefits, including protection, tonight, of service-connected disability compensation to veterans for tobacco-related illnesses. We stand tonight by voting overwhelmingly, almost unanimously, for this amendment, which will make sure we do protect our veterans. And it has been recognized with favor by the American Legion, the Disabled American Veterans, the Veterans of Foreign Wars, AMVETS, Paralyzed Veterans of America, Vietnam Veterans of America, and other service-related organizations.

I know this takes a step in the right direction for our veterans, and I congratulate the House again in taking two steps forward this week for our veterans, the men and women who have served our country so gallantly.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. FOX of Pennsylvania. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding. There is going to be a special order on behalf of my very good friend, Terry Sanford, led by the gentleman from North Carolina. Unfortunately, I cannot stay, but I appreciate the gentleman from Pennsylvania giving me this opportunity to ask unanimous consent that my remarks be included in the record immediately following the remarks of the gentleman from North Carolina.

Mr. Sanford, Governor Sanford, was a very close friend of mine. I was one of those young people that came into politics when he was one of our most significant leaders. He was the governor of North Carolina.

He was a courageous governor of North Carolina at a difficult time and brought great credit to his State and great credit to our Nation. And I am pleased to join my friends from North Carolina in honoring this courageous, committed American who, as I said, brought great credit to North Carolina, brought great credit to his country, and was a human being who represented the very best that America had to offer.

I thank my friend from Pennsylvania for giving me that opportunity.

NEW APPROACH NEEDED IN NAGORNO KARABAGH PEACE PROCESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I rise this evening to talk about a continuing concern for our Nation's foreign policy, and that is maintaining our close ties with the Republic of Armenia and the need for a negotiated settlement in Nagorno Karabagh. I am afraid the U.S. negotiating position in this conflict has gotten seriously off track, and I am hoping that recent events will create momentum to get us in the right direction.

As I have mentioned in this House on several occasions, the people of Nagorno Karabagh fought and won a war of independence against Azerbaijan. A cease-fire has been in place since 1994, but it has been shaky at best.

The U.S. has been involved in a major way in the negotiations intended to produce a just and lasting peace. Our country is a co-chair of the international negotiating group formed to seek a solution to the Nagorno Karabagh conflict along with France and Russia. But, unfortunately, the U.S. position has sided with Azerbaijan's claim of so-called ''territorial integrity'', despite the fact that this land has been Armenian land for centuries, and the borders which gave the land to Azerbaijan were imposed by Soviet dictator Joseph Stalin.

☐ 1900

Last week, international mediators from the Organization for Security and Cooperation in Europe, OSCE, traveled to Armenia's capital of Yerevan to discuss the new Armenian government's position on the Nagorno Karabagh conflict. The American, Russian and French Armenia's negotiators heard Armenia's new foreign minister, Vartan Oskanian, reiterate Armenia's opposition to the OSCE peace plan, which calls for a phased solution to the dispute. Foreign Minister Oksanian called for a resumption of face-to-face talks between the parties to the conflict, Karabagh and Azerbaijan, without preconditions.

Mr. Speaker, in late March, the people of Armenia elected Robert Kocharian as their president. Mr. Kocharian, who actually hails from Karabagh, has insisted that the OSCE plan is essentially a non-starter since it fails to guarantee Karabagh's security and self-determination. In fact, Mr. Speaker, the previous Armenian government of President Levon Ter-Petrosian fell largely because the former President had publicly come out in support of the highly unpopular and unworkable OSCE plan, after considerable pressure from the United States I might add.

Unfortunately, it appears that we have not learned our lesson. The U.S. is still sticking to the original, unworkable plan. Worse still, I am afraid we may be trying to pressure Armenian and Karabagh into going along with this plan, suggesting that there could be repercussions from the U.S. This is clearly the wrong way to deal with the government of a friendly country like Armenia, particularly when that government is merely standing up for the legitimate security concerns of its people.

The recent change of government in Armenia affords an excellent opportunity for us to offer a new approach to the Karabagh conflict, one that recognizes the need for long-term, ironclad security arrangements and full self-determination for the people of Karabagh. I am concerned that the U.S. and our OSCE partners are taking their cue from the government of Azerbaijan, which has refused to budge. But the bottom line is that Azerbaijan will not budge until the United States and the international community force it to negotiate in good faith.

Mr. Speaker, I am also concerned about the failure thus far to deliver the U.S. aid to Nagorno Karabagh that has been promised and appropriated. In 1998, the Foreign Operations appropriation bill provided for the first time direct aid to Karabagh in the amount of $12.5 million for humanitarian needs. The humanitarian infrastructure needs in Karabagh are severe, as I have witnessed firsthand.

Unfortunately, Mr. Speaker, it is not clear that any aid has yet been provided to Karabagh. At a hearing two weeks ago of the House Committee on International Relations, officials testified that aid would soon be provided to Karabagh but would be disbursed by a non-governmental organization that would have broad discretion over how the aid was spent. Furthermore, it appears that the State Department does not intend to spend the entire $12.5 million in Karabagh itself, although that is what was intended by Congress. Several of my colleagues are also pressing for the aid to be spent in Karabagh, as Congress intended, and we plan to keep up that pressure.

While working to get the aid that has already been appropriated to its intended recipients in Karabagh, I am also urging the Foreign Ops Subcommittee to build upon its historic achievement in the FY 1998 bill to earmark assistance to Nagorno Karabagh at $20 million and make it even more clear that the aid is intended for disbursement within that Nagorno Karabagh. I also urge that aid to Armenia be increased and not decreased, as the Administration has proposed.

Armenia is making great progress in terms of democracy in free markets. We should not back out of that commitment now that our investment in democracy in this former Soviet Republic is bearing fruit and particularly not if the intent is to use the aid as a form of leverage against Armenia and Karabagh in the stalled peace talks.

Finally, Mr. Speaker, I want to again stress the importance of maintaining the current ban on direct government aid to Azerbaijan until this country lifts its blockade of Armenia and Karabagh. This ban was enacted as part of the Freedom Support Act of 1992, it is good law. Now, Congress is reexamining the issue of the prohibition on aid to Azerbaijan.

The Senate Foreign Relations Committee yesterday postponed a markup on legislation known as the Silk Road Strategy Act. I think that that legislation should not be passed, because we do not want to see a repeal of section 907.

The House International Relations Committee is soon expected to consider similar legislation. While ostensibly an effort to enhance U.S. engagement in the region, the purpose of the bill seems now more than ever to be an attempt to repeal Section 907.

Mr. Speaker, for the ban on aid to be lifted, Azerbaijan need only lift its blockades of Armenia and Karabagh. Until then, there should be no consideration of asking U.S. taxpayers to support the dictatorship in Baku.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

(Ms. JACKSON-LEE of Texas addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

DEFENSE AUTHORIZATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DREIER) is recognized for 5 minutes.

Mr. DREIER. Mr. Speaker, as we prepare for a load of speeches that most of us will be giving on Monday, it is important to think about the debate which has taken place today on the Defense Authorization Act.

The issues raised during the debate on amendments to the Defense Authorization Act, as I said, which involve the relationship between the United States and China, are some of the most deeply troubling that I have witnessed since I have had the privilege of serving here in the Congress. And make no mistake about it, the long-term bilateral relationship between the United States of America and China is very serious business.

We are talking about the world's leading democracy and only superpower and the world's fastest growing and most populous nation. This may be the most important bilateral relationship in the world. We have a responsibility to make every effort to craft a strong and stable bilateral relationship that is built on positive economic and political reforms in China.

Mr. Speaker, success is critical to our future. Now, our Constitution places in the executive branch, in the presidency, the responsibility to first and foremost protect our Nation's security. As the Commander in Chief and executor of foreign relations, there is no substitute for the President on foreign policy.

During the past two administrations, I have worked long and hard on a bipartisan basis to help craft policies toward China which promote more stable relations based on free market reforms and the seedlings of democratic progress in that country.

What is so troubling today is that very serious, Mr. Speaker, disturbingly serious charges are being leveled at the current administration which cut to the very heart of the fitness of the administration to carry out a sound China policy. The first and foremost responsibility of the executive branch of the President is to protect national security. Nobody else can do that, Mr. Speaker, not American businesses and not other foreign entities.

The key events in question do not seem to be in dispute. We know that for years a number of American firms that construct and use satellites have desired to use Chinese launch vehicles, Chinese rockets. They have used them because they are cheaper and more available. The big problem has been that they are very unreliable. Those rockets blow up too often, destroying their expensive satellite cargo. This, obviously, can be a big problem.

In the spring of 1996, a Chinese rocket blew up that was carrying such a satellite. It is reported that the insurance companies responsible for the $200 million satellite destroyed by the rocket failure essentially told their American satellite customers to either improve the reliability of Chinese launch vehicles or find new launch sources. It is reported that the U.S. companies proceeded to help improve the launch vehicles.

Mr. Speaker, this assistance raised very, very serious red flags at the Department of Defense and the Department of State about the prospect that this assistance would likely help improve Chinese ballistic missiles, a clear national security concern.

The key fact is that over the course of 2 years, an internal debate raged within the administration between the economic benefits to a few companies being able to use better Chinese launch vehicles and clear national security warnings from within the Defense and State Departments. Added to the mix are a blizzard of campaign contributions to the President's campaign from the corporate interests involved.

Mr. Speaker, while no pun is intended, it does not take a rocket scientist to recognize that better Chinese satellite launch vehicles will result in better Chinese ballistic missiles. The fact that it appears that the administration chose the financial benefits of some companies over a clear national security concern is very troubling. The fact that such large campaign sums may have had an impact on the decision is even more disturbing.

Finally, the fact that the Administration would devastate their own ability to carry out our Nation's foreign policy towards China with some degree of respect and moral authority is staggering.

The administration had better recognize the signal that was sent to them by the House with the passage of the amendments today. The relationship with China is too important to be foolishly squandered. It is time for the administration to immediately provide the Congress with all information related to these events.

While we have a responsibility, Mr. Speaker, to continue to try to foster a sound relationship with China, we must ensure that the administration holds national security as the bedrock upon which our foreign relations stand.

TRIBUTE TO SENATOR TERRY SANFORD

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from North Carolina (Mr. HEFNER) is recognized for 60 minutes as the designee of the minority leader.

GENERAL LEAVE

Mr. HEFNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to provide extraneous material on the subject of my special order.

The SPEAKER pro tempore (Mr. KINGSTON). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. HEFNER. Mr. Speaker, as the dean of the North Carolina Delegation, I would take this time to pay tribute to what I consider one of the greatest politicians and public servants that has ever served this country, former Governor Terry Sanford; Duke President Terry Sanford; and as of late, the Senator Terry Sanford.

At this time, some of my colleagues from North Carolina have remarks that they would like to make, and I yield to the gentleman from North Carolina (Mr. PRICE).

Mr. PRICE of North Carolina. Mr. Speaker, I thank my colleague for organizing this special order and for giving us the opportunity tonight to pay tribute to an extraordinary citizen and a visionary leader, Terry Sanford, a son of North Carolina of whom we are exceedingly proud.

Terry Sanford died on April 18. When we look back on the broad sweep of his life, in addition to being governor and senator, he was an FBI agent at one time; a World War II paratrooper; a state legislator; a lawyer; an author; a university president. We see a life committed to the greatest movements and deeply involved in the greatest accomplishments in this American century.

Terry Sanford was a mentor and an inspiration to many of my generation who came of age politically during his governorship in the early 1960s. He was the first political figure with whom I seriously identified. He became governor at a time of extraordinary challenge as the movement for racial justice swept across the South. The South, in fact, was a racial powder keg, with the sit-in movement, the Freedom Riders, a resurgence of the Ku Klux Klan, mob violence, and federal troops occupying college campuses.

Governor Sanford rejected the politics of demagoguery and defiance and thus set a standard for the New South on the most important and explosive issue of the day.

While massive resistance was embraced by some, during his 1961 inaugural address, Terry Sanford called for a ''new day'' in which ''no group of our citizens can be denied the right to participate in the opportunities of first-class citizenship.''

It made a world of difference to me and my generation to have Terry Sanford as a counter-example to the Wallaces and Faubuses and Barnetts, as an example of decency and dignity and a willingness to change.

Governor Sanford also in the space of a short, single term made major contributions to the improvement of public education in North Carolina, to the development of North Carolina's community college system, and to the growth of Research Triangle Park. A Harvard study designated him as one of the Nation's top 10 governors in this century.

Most importantly, Terry Sanford taught my generation what democratic politics at its best could be. He was a model of energetic and innovative leadership, full of ideas, refusing to be bound by the shackles of the past, possessing a vision of future possibility that inspired and empowered others.

When I returned to North Carolina in 1973 to teach at Duke University, it was again under Terry Sanford's inspiration as we launched what is now called the Terry Sanford Institute of Public Policy. President Sanford's idea was to bring disparate disciplines together, from economics to political science to history, to the arts, to ethics, to bring these disciplines together to enrich one another and to address the major challenges facing our society. As a young faculty member, I could not have asked for a more worthwhile mission or a more congenial atmosphere than what he fostered at Duke University.

Under President Sanford's leadership, the world-renowned Duke Medical Center doubled its capacity, the Fuqua School of Business was constructed, the University's endowment tripled. In short, under President Sanford, Duke reached its current status as a national leader in education, while also strengthening its ties to North Carolina and its contribution to our region of the country.

Along the way, Terry Sanford chaired a major national Democratic Party commission, he wrote a book, and organized a national forum on our flawed system of presidential nomination, and he ran for President himself, standing up to George Wallace in the 1972 primaries.

□ 1915

Finally, Terry Sanford served North Carolina and the Nation as a United States Senator. He was a reluctant candidate in 1986, but he saw the need, and he responded to the call. I will forever treasure the memory of running on the ticket with him in my first campaign and serving with him here. He was the best at delivering a political stump speech that I have ever seen, speaking without notes in perfect one-sentence paragraphs, each one of them a perfectly crafted applause line. He was very, very good.

Senator Sanford's diverse policy interests were expressed in his service on the Committee on the Budget, Committee on Banking, and the Committee on Foreign Relations, and in initiatives that ranged from promotion of a stable peace in Central America to the cause of truth-in-budgeting. As always, he combined a gift for national policy innovation with faithful stewardship of North Carolina's needs and interests.

Terry Sanford had multiple careers, any one of which would be a credit to most people. I do not expect we will see another Terry Sanford in our lifetimes. But we can pick up parts of his legacy, and we can move that legacy forward.

We can all draw strength and wisdom from our memories of the example that he set, the courage that he displayed, the diligence and patience he showed in mentoring the younger generation, the good humor that infused everything that he did, the confidence he had in the capacities of ordinary men and women and in the ultimate judgment of history, even when he was undergoing temporary disappointments or setbacks. We will remember the confidence he had in us, willing to believe the best about each of us and thus enabling us to be our best.

Terry Sanford empowered and enabled many, many people. The ultimate impact of his influence and his inspiration will be limited only by the energy and creativity and the passion for realizing social justice that each of us can muster.

Mr. Speaker, I include for the RECORD the tributes to former Governor and Senator Sanford from the magnificent memorial service at the Duke Chapel: the remembrances by Governor James B. Hunt, President Nan Keohone of Duke University, former North Carolina House Speaker Dan Blue, Duke Endowment Chairwoman Mary Semans, Judge Dickson Phillips, and former Sanford Institute Director Joel Fleishman.

In addition, I include in the RECORD the eulogy from that service by Provost Emeritus Tom Langford of Duke University. I would also like to include a tribute by Z. Smith Reynolds Foundation Director Tom Lambeth, delivered on another occasion, and then two

columns by national journalists who knew Terry Sanford well and admired him greatly, Albert Hunt of the Wall Street Journal and David Gergen of U.S. News and World Report.

REMEMBRANCE AT THE TERRY SANFORD FUNERAL

(By North Carolina Governor Jim Hunt)

In the words of a great Methodist hymn: ''Oh, for a thousand tongues to sing our Great Redeemer's praise.''

Indeed, 1,000 tongues are here today to praise our Redeemer and one of His most magnificent gifts to the people of our state and our nation. I know that I speak for many of you when I say very simply: Terry Sanford was my hero. He was my hero because of what he did, but also because of the way he did it. His approach, his style, his ideas. He was constantly looking for ways to improve things. Calling people together to study issues, to prepare proposals for action. In fact, I suspect by now he has almost certainly had his orientation session with the Lord. And it was NOT a one-way conversation. I expect he has given the Lord a few good ideas for improving Heaven. Some of which should be done in the next 30 days. And almost certainly, if he has found any poverty, any discrimination, any poor schools, any worthy arts ideas there are projects underway, even now.

At a time when we struggle about whether government should act, let us remember the words of this uncommon man, Terry Sanford, who could think great thoughts and make them a reality. In one of his books, Terry wrote:

''Indeed, if government is not for the express purpose of lifting the level of civilization by broadening the opportunities in life for its people, what IS its purpose?''

And he added: ''Government is not something passive, not our kind of government. It has built into it the spirit of outreach, the concern for every individual. Look at the verbs in the Preamble to the Constitution—establish, insure, provide, promote, secure. All these connote action, and all suggest that we must constantly be striving to improve the opportunities of our people.''

And ACT Terry Sanford did. Strive to improve opportunities for our people he did.

Imagine what North Carolina would be like if we had not had Terry Sanford striving for us all these many years.

Imagine what North Carolina would have been like in the 1960s if we had not had a governor who believed in bringing people of all races together. If we'd had a governor, like other states, who appealed to the worst rather than the best in us. Imagine no Terry Sanford.

Imagine what North Carolina would be like without the Research Triangle Park. Imagine no Terry Sanford.

Imagine what North Carolina would be like without the community college system or the School of the Arts. Imagine no Terry Sanford.

Imagine what North Carolina would be like had he not set national excellence as the goal for this great university—and all of our other universities. Imagine no Terry Sanford.

Imagine what North Carolina public schools would be like if a great governor had not had the courage to pass a tax for school improvements—an act of courage that cost his own political ambitions deeply. Imagine no Terry Sanford.

It is truly unimaginable. You cannot imagine North Carolina without Terry Sanford.

Forty years ago, no one could have imagined what North Carolina would become.

No one, that is, but Terry Sanford.

He once wrote: ''The governor, by his very office, embodies his state. He stands alone at his inauguration as the spokesman for all the people. His presence at the peak of the system is unique, for he must represent the slum and the suburb, his concerns must span rural poverty and urban blight. The responsibility for initiative in statewide programs falls upon the governor. He must energize his administration, search out the experts, formulate the programs, mobilize the support and carry new ideas into action.''

Terry, you set the goals and our sights very high. So high that we often wonder if we can meet your standard. But your good works, your words and your spirit tell us every day, in every way, that the goal can be ours. That the struggle is worth it.

When we leave today, we will leave the body of our hero in this chapel. We will leave it here because no other structure is sufficiently magnificent to serve as the final resting place for a life as magnificent as his.

But while we leave his body here to rest, the evidence of his good works is and will be around us everywhere—in the institutions he led, in the innovations he championed, in the individuals he touched and, most of all, in the spirit of everyone here today and everyone in this state. And so it will be for every generation to come.

For all that North Carolina has become and will be, Terry, we thank you.

God bless this place. God bless this family. And thank God for the magnificent blessing of giving North Carolina Terry Sanford.

TERRY SANFORD REMEMBRANCE

(By Nannerl O. Keohane, President of Duke University)

Of the many eloquent tributes that have been paid to Terry Sanford this week, the one in our student newspaper on Monday would have been especially dear to him. It was written by Devin Gordon, the editor of the Chronicle, and it begins as follows: ''Surely there is a place in heaven for Terry Sanford. For eight decades, Duke's patron saint found his way into the soul of this university and into the hearts of North Carolinians. The highlights of his storied career read like the resume of a dozen men combined: four decorations as a paratrooper during World War II, two years as a state senator, four years as N.C. governor, 15 years as university president, two runs for the United States presidency and six years as a United States Senator. On Saturday morning at 11:30 a.m., however, he finally stopped to rest.''

Terry Sanford took office at Duke in 1970, at a time when one might have thought that only a madman would take a university presidency. It was the very height of the protest against the war on campuses everywhere; presidents were being thrown out of the office right and left, and those who kept their jobs were harried and beleaguered. In those tumultuous times leadership was scorned and often ineffective. But Terry took the job with zest, and from the very first, performed it with panache, sincerity, serenity and purpose.

We've relished the story of how he met with protesting students during the first few weeks and, when they told him that they planned to occupy our administration building, he said, ''Great, take me with you. I've been trying to occupy it for weeks.'' But it's less well known that after delivering that memorable quip, Terry neither departed nor called in reinforcements. He took a chair and sat down on the stage behind the student leaders. This quiet but brilliant gesture immediately established his authority, demonstrated that he intended to be part of the solution, and forced the student leaders to redirect their attention, both literally and metaphorically, to the president as well as to the audience in front.

Even more remarkable, Terry aspired then not just to keep Duke University roughly on course, not just to create space for dialogue, not just to keep the peace. He took the presidency of a fine university with a distinguished history in its state and its region, and determined to make it one of the nation's truly great institutions. And he succeeded, beyond what any observer could have predicted or foreseen.

Now Terry would be the first to say that he did not do that all by himself. Many others, many gathered here today, were important in this endeavor, but his leadership was crucial.

Terry had extraordinary political skills—political in the best sense of the word—which he used in the state, in the university, in the senate: the power to persuade, the ability to bring people together to accomplish shared goals, an uncanny sense of strategy, and patience coupled with determination and leavened by humor.'

At a time when politics is held in less than good repute by many in our country, it is worth celebrating a man for whom politics was a true vocation, who excelled at it. There's an essay by that name. ''Politics as a Vocation,'' which was written in the dark aftermath of World WAr I in Germany by Max Weber, who was himself a statesman and a teacher. And he said: ''Politics is a strong and slow boring of hard boards. It takes both passion and perspective. Certainly all historical experience confirms the truth that man would not have attained the possible unless time and again he had reached out for the impossible. But to do that a man must be a leader, and not only a leader but a hero as well, in a very sober sense of the world.

Terry Sanford was, in truth, a leader-hero. That word re-echos around this Chapel today. As one of his successors in this office, I have learned more than I could possible describe from Terry's example and from his wise counsel. From the very first time we met for breakfast soon after I came to Duke, when he looked me over with that piercing but kindly glint in his eye and gave me some extraordinarily sage my perspectives on my new university and my new state, to the last time I saw him, just a few weeks ago when I went to his house to ask his advice about the great bonfire controversy that raged at Duke this spring, he was an unfailing source of staunch support, friendly advice, and regular inspiration.

As President, ''Uncle Terry'' was especially close to the students. He felt, and he said, that the students were the whole point of the institution. At breakfasts, at parties at his house, just by walking around the campus, he drew his strength as president from the exuberance and the freshness of the undergraduates. He did so remembering the importance in his own life of a great leader of his alma mater in his student days—Frank Porter Graham. One of Terry's legendary moments, Herculean in its implications, came when he swayed the Cameron Crazies, at a time when their cheers had become especially obscene and ruthless. He wrote to them as Uncle Terry, and appealed to them to be more clever and less gross, to be ''devastating but decent.'' And they responded, with greetings of exaggerated courtesy to our friends from Chapel Hill, with loyal halos, and with respectful jibes at the referees saying, ''we beg to differ.''

He believed in giving students a great deal of power within the university. He put them, for example, on Trustee committees, and he asked of them in turn a high degree of responsibility; and they responded affectionately and admiringly. The list of Terry's accomplishments as president of Duke is long

and very impressive—the buildings he built, the programs he instituted, the Fuqua School of Business, the Institute of the Arts, the Talent Identification Program, the Mary Lou Williams Center, the Institute of Policy Sciences, which now bears his name, and many more. But he was especially proud of the Bryan Center, the student center, which he called the ''living room of the university.'' He wanted all students at Duke to have a good experience, to make friends, to enjoy their time. When two of his administrative colleagues came to tell him that Duke could not afford to build the student center, and that it was time to tell the board this news, Sanford said: ''then you'll also have to explain to them why I'm no longer president.'' Needless to say, a way was found to build it.

Terry Sanford also cared deeply about employees. He wrote a policy statement shortly before he left office in which he emphasized that ''Every person who works at Duke is vitally important to Duke. We are all Duke University people. Our employees' welfare and creative contributions are intertwined with Duke's excellence and success. Working at Duke, in whatever capacity, must be a satisfying way of life. We are each an individual part of one of the great institutions of America.''

Leaders who care deeply about individual human beings sometimes find it hard to focus on institution-building, and leaders who have built institutions have sometimes worked in abstractions and knew little of the people who were part of those institutions. But Terry was amazingly able to bring those two aspects of leadership together. He understood that institutions are made up of individual human beings. They are not bloodless abstractions. He also understood that individual human beings need good institutions in which to live and to work and to flourish. He cared about the state of North Carolina, the government of his country, the United States Senate, the School of the Arts, the School of Science and Math, and Duke University. We are all better, and stronger, and more optimistic about the future, because of the lasting legacies of Terry Sanford's life and leadership.

REMEMBRANCE AT THE FUNERAL OF TERRY SANFORD

(By Daniel P. Blue, Trustee of Duke University and Former Speaker of the N.C. House of Representatives)

To the wonderful Sanford family and the extended Sanford family, I come to remember and commemorate the single most important North Carolinian in my lifetime and perhaps the single most important North Carolinian of this century.

When I was 24 years old with a wife and young son and two weeks experience practicing law, Terry Sanford came to visit me in my office. He walked in, closed the door, sat down. He could tell I was nervous. After all, who wouldn't be if you had a former governor, the president of the university from which you had just gotten your law degree and the single partner in a law firm that had just blazed a new path in this state by being among the first to hire an African-American lawyer, come in the office.

Well, after giving me a little fatherly advice on the practice of law, Terry told me, he said, ''I came over here to check on you, see how you're doing. These fellows will treat you all right. If they don't, let me know. And let me know if there is ever anything I can do for you.'' It was his law firm of course—Sanford, Cannon, Adams and McCullough, at the time. And I later learned that Terry had placed a call to the senior partners in that firm and told them that he had observed this Duke law student and he wanted them to interview me, which was tantamount to telling them ''come hire me.'' So, after we had talked a while, Terry also did the greatest tribute, I guess, to a young lawyer. He assigned me to one of the major cases in the firm, directly answerable to him and two of the other main partners in the firm.

Later, as time went on, not only with me but other people in the firm, Terry consistently urged us to be politically active and he urged me to run for the North Carolina House of Representatives, and I did. Later on, as a U.S. senator, Terry learned that I was interested in being speaker of the House of Representatives and he called and he said, ''You know, people will call you and they'll tell you why you can't do it for various reasons. Some of them will be obvious to you. Some won't. You ought to listen, be courteous to them, acknowledge their interest and concern, then go on about tying down those who are going to support you and do it.'' And you know, with his help.

The fact that I stand before you today, as a farm boy from Robeson County, one who embodies all of those things that Terry Sanford did and meant for North Carolina, and as I stand to help remember one who is considered one of the 10 greatest governors in America during this century, it's a clear measure of how far we have come and how far Terry Sanford has led us. You know, the amazing, almost mystical thing about Terry Sanford, as one of his former law partners told me, was his ability, the rare knack, to get ordinary people to do unordinary and extraordinary things.

We reflect a little bit, those of us who grew up in North Carolina in the Sixties, on a different climate, but we also wonder whether our brethren in North Carolina were much different than our brethren throughout the region during those turbulent times, or were we blessed in the Sixties with the kind of the leader who did not reflect a lot of the sentimentalities and the sensibilities of the people as much as he shaped them and elevated those sensibilities?

Thirty-five years ago, in neighboring states in the South, Ross Barnett in Mississippi closed gates, shut doors to prevent James Meredith from entering the University of Mississippi. At about the same time Gov. Faubus from Arkansas closed gates, shut doors, to keep students from integrating the public schools in Little Rock. At about the same time, Gov. Wallace from Alabama stood in the schoolhouse door to block entrance, to close the gates. In Virginia, schools closed, people were denied, gates came down.

And at about the same time, Gov. Terry Sanford in North Carolina boldly generated the resources to improve public education for my generation, helped establish our statewide system of community colleges for my generation, created the North Carolina School of the Arts, created the Governor's School in Winston Salem, created the Learning Institute of North Carolina, increased teacher pay, started the North Carolina Fund, and established the Good Neighbor Council to discuss racial issues in the state during those tense times.

He had a vision to see across the landscape of hopelessness, hate, distrust and despair: to look through the hills, that existed at the time, or racism, of economic deprivation and all of those things that he clearly could see across, and see a gate of opportunity for all North Carolinians, for all Southerners, for all Americans.

In fairness, I will say this, one quarter of a century later, Gov. Wallace repented and we know, those of us who are believers, that the Lord has said there will be more rejoicing in heaven over one sinner who repents than over 99 righteous person who do not need to repent. But with due respect to heavenly custom, Lord, I would say that down here in North Carolina there is more rejoicing over one righteous person, a righteous man, who need not repent for any position that he took in times of trial or in rough decision.

If I have known any man who has made a difference in my life and in the lives of so many North Carolinians, who believed in people and who was impervious to the pressure of other people's prejudice, it was Terry Sanford. I'm speaking as just one of the people who own him a tremendous debt of freedom and gratitude. I told my children as they asked me many years ago when they were looking at Duke, that Terry Sanford was reason enough to look because he was a man who was at least two generations ahead of his contemporaries. The older I get, my friends, the more I know I need to revise that. Terry Sanford was a man who was at least three generations ahead in his vision of my generation.

So, let me say, if you will permit me to use this opportunity, offered by the power of this pulpit and the honor of this occasion, to discharge a personal duty to Terry Sanford, to do for him in his afterlife what he did for us as lawyers who had the privilege of practicing with him, what he did for us as North Carolinians and as Americans—offer a short, persuasive recommendation for admission. And I would start it by saying, Dear Lord, open your gate wide for Terry Sanford. He opened gates for me. Dear Lord, open your gate wide for Terry Sanford, he opened gates for all of us here on earth. Oh Lord, open wide your gate for Terry Sanford, he never closed a gate on anyone. He never kept the gate closed on anyone. God bless him.

REMEMBRANCE AT THE FUNERAL OF TERRY SANFORD

(By Mary Duke Biddle Trent Semans, Chair of The Duke Endowment)

A man from Durham County called me and asked, ''Do you think we could come to Terry Sanford's services. He was my friend.'' I'm sure he's here today because all of us know that we are all his friends. That man knew that all of Terry's friends were real, they were forever and they were sincere.

And as a citizen of Durham, I have to express gratitude for what he meant to this community. This became his home. He recognized Durham's egalitarianism, and he enhanced its peoples reaching out for each other. As a result of his historic achievements, Terry Sanford changed the face of North Carolina. For those of us who worked with him through the years, Terry Sanford was our hero. We referred to ourselves as being part of the family. He made us feel that we were on his magic carpet and that he expected us to do things we never dreamed we were capable of.

The image of North Carolina as that special state, which stands out in the South as its most progressive and inventive, was created by Terry Sanford. He had golden aspirations for it and he made them come true. He was convinced that there was no fence which could be built that North Carolina could not reach and climb. So he established the goals and led the state to its place of honor.

Just think of some of the institutions—some which have been mentioned already, but I have to say again—we watched him build: Governor's School for academic achievers; the North Carolina Fund, one of the nation's first poverty programs; the community college system; a public policy institute at this university; the establishment of the American Dance Festival that he brought to this state; and of all audacious achievements, the North Carolina School of

the Arts, a conservatory for talented professional aspiring young people unique in the South, and in many ways unique in the nation, which is already graduating Oscar nominees and winners.

As president here, Terry Sanford threw open the windows of Duke University—open to the state, the nation and the world. He reminded this institution of its great North Carolina history as Trinity College and brought its alumni back into the fold. He sensed the founders' dreams and carried them out. He emphasized Mr. Duke's vision. Known by many students as ''Uncle Terry,'' he listened to students and challenged them with new opportunities. When he was here at Duke as president, Terry Sanford said, very wisely, ''there is never an end to building an institution.''

He never stopped building and he never stopped dreaming and even in the last few months, he was planning an institute for the arts in the Triangle. Looking back, we realize that almost every one of his great achievements was concerned with youth, as well as with the disabled, minorities, the under served and under privileged—not only helping them in groups, but caring about them and reaching out to them as individuals. He cherished the teachings of his parents and he lived a life based on his Sunday school lessons. There was a particular sweetness about his love of the Methodist Church and of this state and always there was Margaret Rose by his side. Thank Good for Margaret Rose.

As we face the days ahead with a lost feeling, we know that in addition to being an icon, he was a comfort. Just knowing he was nearby gave us a sense of security. Steven Sender wrote that the truly great are those who in their lives fought for life and who wore, at their hearts, the fire's center. Terry's fire will never go out, but we must vow to carry on his fight to make the world better for everyone—for all the people. We must never let him down. So call out the trumpets and celebrate the life of this great man who was our great friend.

Terry Sanford Remembrance

(By Judge J. Dickson Phillips, Jr., Senior Judge, U.S. Court of Appeals for the 4th Circuit)

Margaret Rose, Terry, Betsee, Helen, Mary Glenn, friends all. I last saw him in the hospital just before he left and he wanted to go home. He greeted me then, both feebly and with effort, as he had a thousand times during our intertwined lives—the raised hand and twinkly smile, the same song, Dixon. From there my memories of him run back at least 65 years, give or take a few either way, the boyhood days in Laurinburg. Our mothers were both Virginia-born school teachers. They had been lured to Laurinburg, so one of our Virginians once suggested, for the dual purpose of bringing some Virginian intelligence and learning to the N.C. backwoods, and perhaps, God willing, improving the Scotland County gene pool. Both of them, faithful to their missions, married good young men of the town, raised their families there and lived long lives as friends until Miss Betsy died at 99, a few years before my mother died last year at 98.

Both of them almost to the long end of their widowhoods in the houses in which Terry and I were raised lived before going separately off to college and away in the mid-30's. So, I look back and down the long road of his life and accomplishments as recounted by Jim and Mary and Dan, some portions of which it was my good fortune to share—in the close knit airborne units of World War II and law practice, and political battles. In moments too few, in retrospect, of simple fun and foolishness. I look back to the beginnings long ago.

In looking back it all seems very simple to me. Why he was what he was, and did what he did and persevered to the end. He did it because he took an oath when he was 12 years old and kept it. It started out, ''On my honor I will do my best to do my duty to God and my country,'' and then included such things as help people at all times. It's hard to believe, but he believed it. He was the eternal Boy Scout, it is just that simple. He was a true believer, not a heavy breathing true believer but a true believer in the Frank Graham mold—that it's better to light a candle than to curse the darkness—That you should not take counsel of your fears, that the fundamental requirement is to do justice, to love mercy and remember that you are mere mortal in the eternal presence, that on the earth's last day if you should happen to be there, the thing to do would be to plant a tree or write a book or start building something worthwhile.

Of course, he was more complicated than that. Of course, he didn't always succeed. Of course, he was capable of occasional miscalculations and errors of judgment in public and private affairs. Of course, he was prey for the usual human failures. But on the essentials, for the long run, in good times and bad, he kept the oath about as well as can be kept by one in the heavy engagements of an active, uncloistered life. The simple compass held him true on course until the end. That is why in the world he liked to quote about his great personal and political friend, Kerr Scott, ''He plowed to the end of the road, his furrow was deep.'' Airborne all the way.

Excerpts From the Terry Sanford Remembrance

(By Joel L. Fleishman, Professor of Law and Public Policy at Duke)

Terry Sanford was a great-spirited, great-souled man, a man of passion, a man with a conscience that had real bite, a man of loyalty. But most of all, Terry Sanford was a creative genius, but a thoroughly practical one, who transformed everything he touched into something finer, better, worthier and more useful to the world. If I had to call him by any single phrase, it would be ''the great transformer.''

At a time when most Southern governors were engaged in shameless, vicious race-baiting, Terry Sanford staked his political career on achieving equality of opportunity without regard to race, and thereby transformed, really transformed, public discourse in North Carolina.

The great transformer, what was his secret? What were the qualities of mind and character that enabled him to achieve those feats? First off, he genuinely cared about people. Secondly, he never let things get to him. Over 47 years, I never saw him get angry but once. That was when a state trooper on duty at the Governor's Mansion inadvertently let it be known to a reporter that, get this, alcohol was being served upstairs at the mansion, and Terry was furious that his mother might discover that he took an occasional drink.

He stuck to his word. Unlike so many persons who occupy political roles, Terry Sanford did not change his mind or his tune depending on what those with whom he was talking wanted to hear or according to the views of those with whom he had talked most recently. If he made a decision and committed himself to you, you could count on the fact that he would stick to it and not be persuaded out of it.

How could he do that? Because he had real values, bedrock values; he believed in things. He acted on those beliefs. And he served those values with the most amazing energy I've ever encountered in anyone. He was literally indefatigable. It was not only boundless, but it was never-ending, showing itself even as he fought the last battle of his life against cancer.

One is forced to ask, why? Why did Terry Sanford pour so much of himself into his quest for a better society, in his efforts for others? One time, Terry and Bert Bennett, who's sitting here on the front row, were out on the road campaigning with Margaret Rose, and they were all being subjected to the same old, cold green peas and chicken and equally tasty rhetoric from some of the local politicians. Margaret Rose was complaining to Bert that Terry was gone from home all the time, little Terry and Betsee were moaning about missing their father. Bert slipped a note to Terry which said, Why do you continue to stay in this business anyway? Terry fired back a note with the following words: to keep the SOBs out!

It was the ideals which drove him. I know of no public figure who has demonstrated such consistent fidelity in his ideals over a lifetime than Terry Sanford did. Most of us change as we grow older, get a little more radical sometimes, more often we get a little more conservative. But his devotion to his ideals didn't waver one whit over those 47 years.

In another extraordinary respect, Terry was unique among all those of my acquaintance. He had an unquenchable thirst for ideas from everyone, which led him to seek out persons of all stations and conditions of life with whom to consult. Indeed, his life was a never-ending pursuit of the best ideas from as wide a circle as possible about how to solve the problems of concern to him or indeed them. He was resolutely determined to resist becoming the captive of his long-time friends, his campaign workers, his kitchen cabinet. It goes without saying that he was always loyal to them and they had access to him, but that inner circle was perpetually refreshed over the years by hundreds of others whom he sought out and drew in on a continuing basis. He had the most remarkable thirst for new ideas of any man of action I've ever known, and that had to be the key to many of those innovations for which he is so justly credited.

Eulogy Delivered at the Funeral of Terry Sanford

(By the Rev. Thomas Langford, Provost Emeritus at Duke University and Former Dean of Duke Divinity School)

Everyone here possesses his or her own memories of Terry Sanford; each of us has our own sense of friendship and achievement; each has a story to tell. And we were reminded of this as we heard these moving and delightful stories of those who knew him well.

Terry stood at the intersection of the local community and an expanding world. He always began at home—a dutiful son, a family man, a proud Methodist, and a committed North Carolinian. His loyalty was intense and generous.

He asked that his commitment to the Methodist Church be especially mentioned. He was, he said, an active Methodist (this description, of course, is redundant. Anything Terry did, he did actively). He reminded us that from his local church he had also participated in the regional and national life of his denomination, and that he thought that was significant.

Our commitments express who we are, and so with Terry. From roots deep driven, new growth came forth, limbs extended and spread. Not leaves alone, but fruit was borne and passed life to others. We respected Terry Sanford.

Here, O Lord, is one of your special treasures whom we return for your safe keeping.

Terry's achievements have been immense. You've heard them recounted: a loyal son of the state, a loyal son of his own university, and a loyal president of Duke, a loyal citizen of the nation, and a loyal friend.

In his retirement, he kept doing what he had always done, and conceived an institute for the arts, which would bring to this state activities that were nationally important in both dance and drama.

In all the things that we have heard, Terry Sanford added quality to our lives. We followed him with gladness.

Here, O Lord, is one of our special treasures whom we now return to thee for your safe keeping.

Terry possessed confidence, and he recognized the competence of others. His own reach was extended through others exercising their abilities.

How many of us owe some aspect of our life or hope or ambition to Terry's encouragement? He was always with people. He enjoyed people, he enjoyed the relationships, he enjoyed organizing people around a purpose. He was a people person. And we enjoyed his company.

Here, O Lord, is one of your special treasures whom we now return for your safe keeping.

To recall Terry is to recall Margaret Rose, Terry, Jr., Betsee, their family. You really cannot think of one without the other. Margaret Rose. What words are adequate? Helpmate, faithful, patient, supportive, creator of relationships, sharer of hopes, constructive critic, companion. All of these and more.

But the family was not small. It has extended and been extending so that many of you think of yourselves as part of the extended family. All of us share this loss. We were drawn into his companionship.

Here, O Lord, is one of your special treasures whom we now return to your special keeping.

Grace, at times, comes in human form. Remember God's own best gift was in human form. Terry has walked among us, and we have relearned that human life can express love and loyalty, justice and hope; that humanity can possess passion and compassion, friendship and challenge, and, now, death and resurrection.

We are thankful for Terry Sanford. We remember him with gratitude, with admiration, and with joy.

Here, O Lord, is one of your special treasures whom we now return for your safe keeping.

TRIBUTE TO TERRY SANFORD DELIVERED AT THE N.C. DEMOCRATIC PARTY'S JEFFERSON-JACKSON DINNER, APRIL 25, 1998, BY THOMAS LAMBETH, EXECUTIVE DIRECTOR, Z. SMITH REYNOLDS FOUNDATION

Let me begin by saying that while this is a time of sadness, Terry would not want that sense to prevail tonight. He would have found joy in the presence of all of you, old friends and new friends, and special satisfaction in the presence of the great lady who is our speaker [former Governor Ann Richards of Texas] and whose politics were his politics and he would have sat here with admiration and pride for our governor whose political roots were his roots.

We have been reminded often in recent days of the sense of humor which was always with him. Those of us who visited with him in recent weeks know that it was there as long as consciousness remained. When asked once why he stayed in politics given all of its travails, he said ''I stay in to keep the SOBs out.'' He would want us reminded of that high calling once again.

The essence of Terry Sanford's leadership is found in one compelling strength of his character as a leader: he paid to us his fellow citizens the ultimate compliment—he asked us for our best.

He asked that because he believed we are capable of giving our best and because he knew that North Carolina was worthy of no less.

This is an event tonight which pays tribute to him in a special moment against a long tradition of paying tribute to two great leaders of the Democratic Party. Terry would agree with Jefferson that the ''whole art of government is being honest; simply strive to do your duty and know that history will give you credit where you fail;'' and his career reflects that great strength which North Carolina's own Gerald Johnson found in Andrew Jackson—''he knew the people's problems and he made them his own.'' Terry's own Democratic roots went back to childhood. He remembered well walking in a torchlight parade in Laurinburg when he was eleven, holding high a banner which said ''Me and Ma Is For Al Smith.''

Yet, to fully understand his political commitment as to fully understand the man, one has to see him as what he was first and foremost: a North Carolinian. He would be comfortable with the words of Jefferson and Jackson but you know him best in the words of Aycock and Vance. He believed with Aycock that the role of the Tar Heel leader was ''to speak the rightful word and do the generous act'' and his politics of a lifetime demonstrated his conviction that Vance was right when he said that North Carolinians are ''a people of sober second thought.''

His ambitions for North Carolina were in the minds of some outrageous but in the mirror of history courageous and sound. He knew a secret about this place that Aycock knew and Vance knew: that there is an audacious bent to our character that drives us to achieve greatness against all the odds. So there they are: a School of the Arts, a Governors School, a statewide Community College System, an Institute of Policy Studies, a Museum of Art, a state symphony, a Council on the Status of Women and private and public colleges and universities that are secure among the best in the nation—there they are for everyone, for every child, for every mind and for every heart.

He said to us that we will create here a tradition that says we can set our goals by how bold we are in our dreaming and how strong we are in our doing and excellence is the aim of all our endeavors.

If at times North Carolina was not with him, he was always with North Carolina and, in the spirit of Aycock and Vance and his own mentor Frank Graham, he never doubted that in the course of time he and North Carolina would be together. It was not so much an act of faith as a statement of the depth of his understanding of his fellow Tar Heels—an understanding grounded in more than half a century of going to them where they were.

All of Terry's statewide campaigns—as several drivers here tonight remember well—had to involve a 100 county tour. He lived most of his adult life in urban centers and he was excited by them but he was formed by a small town and in a time when very wise men and women could explain North Carolina as a collection of media markets, he never forgot that it was also Burgaw and Burnsville, Mann's Harbor and Mooresville, Southport and Sparta. His politics were people. ''But What About the People'' was not only the title of a book he wrote, it ws the theme of his public service and it was always important to him to be with people in those places where they live—where the richness that is North Carolina abides.

It is rare to find a public figure with such a lifetime of achievement, FBI agent, combat paratrooper, state senator, governor, University President and US Senator. To all those he brought not just a rich and creative intellect but a mighty heart and the kind of courage of which greatness is born.

And always there was the belief in his fellow citizens. Nothing is more characteristic of that belief that his choice of the title to give the network created by him to deal with the challenges of desegregation in the 1960s—he called them good neighbor councils. If people could just see issues of race as a matter of living together as neighbors even that challenging a time could be made good.

Terry Sanford helped to give us our sense of our own greatness. What he led us to believe about him is not really so important. What is important is what he led us to believe about ourselves.

So if we are truly to pay tribute to him tonight we will help others, especially young people, to understand that politics can be a noble ambition, that the people's business is a blessed career and that it has never been the politics in people that was wrong, only sometimes the people in politics. He would want young people to believe that service to their fellow citizens demands courage and intelligence and faith in each other and that such service is worth a lifetime of devotion.

His own life of public service is a powerful answer to those who doubt the capacity of free men and women to undertake difficult tasks, to preserve their freedom, to find harmony and respect amid diversity.

To those whose pursuit of selfish ends left poverty and despair in their wake as they argued about limited resources he said, but what about the people.

To those who ignore or squander the talents of that majority of our population which is female, he said but what about the women?

To those who stumbled at the price tag of progress, he said but what about our children?

To those who cast fear in front of reconciliation, he said but what about our dreams?

And if he were here to speak to us tonight, as we mourn his loss and share the bittersweet memories of our time with him, he would say . . . but what about tomorrow?

Terry was a fascinating combination of scholar, practical politician, combat paratrooper, and Boy Scout. All of that is captured for me in the memory of that day thirty eight years ago when he filed for Governor. He was armed with all the practical tools of a good candidate: county organizations, major endorsements, and an understanding of how far he could go without leaving the people behind him. Yet he made certain that his young aide knew as he went out that morning that in his pocket to pay his filing fee was a check written by his crippled and dying friend O. Max Gardner, Jr., . . . on his finger was a paratrooper ring . . . and up under his lapel was a Frank Graham for Senate button.

But what about tomorrow? In the days and years to come men and women, young and not so young, will answer that question in their own ways in countless endeavors strengthened by his memory and enriched by his inspiration for service and if you look closely you will see, under their lapels, another button.

It will say Terry Sanford, still at work.

God bless Terry Sanford. God bless North Carolina.

[From The Wall Street Journal Thurs, Apr. 23, 1998]

TERRY SANFORD MADE A REAL DIFFERENCE

(By Albert R. Hunt)

Last weekend, the phone call came from Duke University—my wife is an alumna and

trustee—to say that Terry Sanford had died. It brought back many powerful recollections and thoughts about politics and government.

Back in the early 1960s, when I was a young college student at Wake Forest, there used to be raging debates over whether the ''Negro'' had basic rights. Terry Sanford gave an address calling for equal opportunities and an end to segregation in public accommodations. This was a Southern governor speaking, before Selma. Lyndon Johnson and the great national debates over public accommodations and voting rights had broken the ground for him.

Terry Sanford then became one of my heroes. When he died last Saturday at the age of 80, he still was.

A few years ago a Harvard survey named him one of the 10 top governors of the 20th century. As president, he turned Duke into one of America's greatest universities. ''Terry Sanford was a creative genius,'' his dear friend Joel Fleishman said in an eulogy yesterday, ''who transformed everything he touched into something finer, worthier and more useful to the world.''

He deeply believed in the power of government, properly channeled, to do good. Politicians interested in leadership should study the life of Terry Sanford.

Shaped by the Great Depression, this native North Carolinian was awarded a bronze star as a paratrooper in World War II, fighting in the Battle of the Bulge. Bill Friday, a Sanford friend and occasional rival as the president of the University of North Carolina, remembers those postwar times at Carolina Law School: ''When our generation came back from World War II, there was a noticeable sense of commitment that we were going to change things and make things better for North Carolina. Terry was our leader.''

Inspired by Frank Graham, the legendary president of the University of North Carolina. Terry Sanford and his allies became the apostles for change. In 1960, after endorsing John F. Kennedy, a Catholic, for the Democratic presidential nomination and battling segregationists in the Tar Heel State, he was elected governor. The battle cry throughout most of the South those days was states' rights, a code phrase for racism. Terry Sanford instead preached and passionately practiced states' responsibilities.

On race, he never bowed to the racial demagoguery. He hired blacks, pushed for more job opportunities, launched a model anti-poverty program, and integrated the state parks with his secretary of commerce, Skipper Bowles, father of the current White House chief of staff, Erskine Bowles. North Carolina avoided much of the racial animosity that afflicted neighboring states.

It would be a generation before he could win a statewide race again, but he left a much deeper legacy. ''Southern politician (like Terry Sanford and former Florida governor Leroy Collins) paid a great price for their courage,'' remembers Eugene Patterson, a former newspaper editor and Duke professor. ''But I don't know what the South would be today without them.'' Remember, this was a decade before New South governors like Jimmy Carter and two decades before Bill Clinton's governorship.

Rather than closing schools or standing in schoolhouse doors, he became the nation's ''education governor,'' creatively working with foundations and the private sector to bridge gaps and build an asset base for the future. He started a school for the arts and the Governor's School for gifted students. He significantly improved higher education and, perhaps most importantly, built a community college system; there were only five community colleges when he took office, but he led a more than tenfold expansion.

This has been indispensable to the prosperous North Carolina of today, from the fabled Research Triangle to the megalopolis of Charlotte, one of the nation's financial centers. ''Without the community college and his other educational reforms we wouldn't have had the people with the skills to attract these businesses to North Carolina,'' notes the younger Mr. Bowles. ''He really led our state into the 20th century.''

He remained an activist when he took over the presidency of Duke in 1969 during the turmoil of the antiwar years on campus. When students threatened to take over the administration building, President Sanford replied: ''Go ahead. I've been trying to occupy it for a month.''

Back then Duke was one of the best Southern universities. When Terry Sanford departed as president 16 years later, it was well on its way to becoming one of the half dozen top-ranked schools in America. ''Terry believed that Duke should have 'outrageous ambitions,'" noted its current leader, Nannerl Keohane—and then he achieved them.

Among his many accomplishments—expanding the world-class medical school, starting a top-flight business school, more than doubling undergraduate applications and attracting a higher-quality and more diverse student body—Terry Sanford again was a racial trailblazer, hiring African-American faculty members. Vernon Jordan recalls that the first commencement speech he gave at a non-black Southern institution was in 1973 at Duke, at Terry Sanford's behest. The day he became president, a quota on Jewish admissions was terminated.

During that period, Terry Sanford made two ill-fated and mercifully short attempts at running for president. If only he had known how to win, he would have been a great president. In 1986, he was elected to the U.S. Senate, but he was defeated six years later.

In his last years, he remained a powerful proponent of the importance of government in improving people's lives. Many of the innovative state governors over the past 30 years drew from the Terry Sanford experience. On the federal level, government bashing is a favorite pastime, but Terry Sanford surely would remind us to think about Head Start, or the Internet, or cutting the poverty rate among the elderly by two-thirds over the past three decades, or the world's greatest military or the best national parks or the Centers for Disease Control and Prevention, or the 20 American Nobel prize winners in the past three years who were funded by the National Science Foundation. That's government.

Those are lessons that young scholars at Duke's Terry Sanford Institute of Public Policy will learn for years. When thousands said goodbye yesterday, there was a powerful symbolic aspect, appreciated by those who know of the intense academic, social and athletic rivalry between the University of North Carolina and Duke, only 11 miles apart. Terry Sanford became the first son of Chapel Hill to be buried in the Duke chapel.

'A CONSCIENCE WITH BITE'—

TERRY SANFORD SHOWED THAT ONE FEARLESS LEADER CAN MAKE MILLIONS BRAVE

(By David Gergen)

When doctors at Duke University discovered in December of last year that Terry Sanford had inoperable cancer, they told him he had 90 to 120 days to live. ''I'm not giving up,'' he replied, ''because I learned how to live with much worse odds during the war. Now, I don't want you to give up, either.''

Ever gallant, ever hopeful, the former governor and university president entered his last struggle. On April 18, he finally lost, but as thousands of mourners gathered at the Duke chapel last week, they remembered with joy the many other battles he had taken up and won on their behalf. They knew his journey had a significance far beyond his own beloved state: He taught us once again—at a time we need reminding—how much a single, fearless leader can do to release the energies of a democratic people.

Over coffee at his home shortly before he died, Sanford returned time and again to his youth and war experience. He talked of his roots in a rural town and his continuing pride in having become an Eagle Scout. ''That probably saved my life in the war,'' he said. ''Boys who had been scouts or had been in the CCC [the Civilian Conservation Corps of Franklin Roosevelt] knew how to look after themselves in the woods.''

Learning courage. As with many of this century's leaders—Harry Truman was one, George Bush another—Sanford discovered his own personal bravery in combat. He had to talk his way into uniform (''they rejected me the first time because of flat feet'') and wound up a paratrooper. He jumped into France just after D–Day, survived that horrendous winter of 1944–45, fought in the Battle of the Bulge, and came home a decorated hero.

''We become brave by doing brave acts,'' Aristotle wrote, and so it was with Sanford. Elected governor of North Carolina in 1960 and limited by law to a single term of four years, he was so effective that later on, a Harvard survey recognized him as one of the 10 best American governors of the century. Long before other governors, especially in the South, he invigorated public schools, built community colleges, attracted research investments, and created centers of artistic excellence. But above all, he stood up courageously for civil rights.

In Mississippi, Gov. Ross Barnett shut out blacks; in Arkansas, Gov. Orval Faubus; in Alabama, Gov. George Wallace. Only in North Carolina and Georgia did governors insist that blacks had rights, too. With the Klan on the move, Sanford created Good Neighbor Councils across the state, asking prominent blacks and whites to work together in pursuit of better schools and jobs. His popularity was damaged, but he defused the crisis and helped liberate the state from the shackles of racism.

Sanford himself was the first to credit valorous black leaders like Martin Luther King Jr., John Lewis, and Rosa Parks for the civil rights revolution. Yet progress would have been even bloodier and more painful had it not been for a few white leaders who also put themselves at risk by embracing the cause.

Terry Sanford didn't live by the polls, as nearly every ''leader'' in Washington now so slavishly does; he lived by his own sense of right and wrong, learned back in a little town. And he stuck to it, regardless of personal risk. In his funeral service last week, where his long years as president of Duke and as a U.S. senator were also celebrated, his friend Joel Fleishman said he had ''a conscience with bite.'' Exactly.

Sanford, like Lyndon Johnson, believed that racism was not only dividing blacks from whites but also dividing the South from the rest of the nation. By freeing people from its scourge, everyone in the region would have a better chance to grow. Indeed, that captured much of his political philosophy: A leader's role is to raise people's aspirations for what they can become and to release their energies so they will try to get there.

When Sanford became governor, as Fleishman pointed out, his state was 49th among the 50 states in per capita income; today it is 32nd and rising. More than that—as so many natives will attest—hate is giving way to decency, pessimism to hope. A

single leader, brave and idealistic, liberated the best in his people.

Mr. HEFNER. Mr. Speaker, I yield to the gentlewoman from North Carolina (Mrs. CLAYTON).

Mrs. CLAYTON. Mr. Speaker, I thank the gentleman for yielding to me and also thank him for his leadership in arranging for this special order honoring a great American.

Kahlil Gibran asked this question: Are you a politician who says to himself I will use my country for my own benefit, or are you a devoted patriot who whispers in the ear of his inner self, I love to serve my country as a faithful servant?

With regard to Terry Sanford, his accomplishments speak for themselves. He served North Carolina and the Nation at large in a variety of roles: FBI agent, Army paratrooper, Democratic Party Convention delegate, governor, Duke University president, presidential candidate, and U.S. Senator with distinction and honor. He sincerely loved to serve his country.

This truly faithful servant weathered some of the most turbulent storms of the century, his moral accomplish never wavering. Terry Sanford faced crisis and adversity head-on, never afraid of doing what was right and just, even though those actions had high personal as well as political costs.

Terry Sanford was gifted with a unique combination of virtues: caring, courage, and vision. He cared deeply about all of North Carolina's citizens and was courageous enough to buck tradition and ignore conventional wisdom in order to seek out what he knew was best for the Old North State, North Carolina.

Terry Sanford was progressive before it was popular to be progressive, especially in the South. North Carolina was at a crossroad, with monumental opportunity for progress or peril.

Terry Sanford had a vision, one which he made a reality during his tenure of Governor from 1961 to 1965. This vision is clearly articulated in his Inaugural Address. He said ''Today, we stand at the head of the South, but that is not enough. I want North Carolina to move into the mainstream of America and to strive to become the leading State of the Nation. I call on all citizens to join with me in the audacious adventure of making North Carolina all it can and ought to be.''

Keeping true to this vision, he fought poverty, illiteracy, and segregation in creative and innovative ways.

Terry Sanford created a statewide anti-poverty initiative known as a the Carolina Fund, which President Lyndon Baines Johnson used as a model for his War on Poverty.

He took a great risk and pushed through a political unpopular, but very necessary, very practical legislation through the North Carolina State General Assembly expanding the 3-cent sales tax to include food in the name of education.

He conceived and implemented the first statewide system of community colleges, as well as establishing the North Carolina School for the Arts, the first residential, State-supported college devoted solely to fine arts.

He established the Good Neighbors Council, later known as the Human Relations Council, to provide a public forum for racial issues during a time of significant unrest.

His vision extended to projects like the Research Triangle Park, which is now one of the premier high-tech areas in the country. He worked diligently to attract companies to that area with IBM being the first to establish there.

He was ever the eternal optimist, seeing only the best in North Carolina and seeing the best in all human beings. He continued to push the State to new heights and challenge the individuals to be all that they could be and should be.

John Fitzgerald Kennedy remarked ''A man does what he must, in spite of personal consequences, in spite of obstacles and dangers and pressures.''

Terry Sanford did what he had to do as a Bronze-Star winning member of the 82nd Airborne, as Governor, as Duke University president, as a U.S. Senator. No matter what he did, he did his duty. He always fought to do that which is right. And he always fought the good fight.

Confucius said, ''He who exercises government by means of his virtue may be compared to the north polar star, which keeps its place and all the stars turn towards it. Terry Sanford was Polaris, the bright North Star, shining in the darkness of the sky, like a beacon. He blazed trails, on which many of us now follow, his unwavering virtue as a testament of his caring for people and his commitment to his State.

All of us who knew Terry Sanford thought of him as our friend as well as our mentor. Therefore, it is our challenge to keep his vision alive as we, indeed, respond to new opportunities and revisit old opportunities and challenges. Let us celebrate his life and his accomplishments through our present and future actions, to be as Terry Sanford was, to fight the good fight.

Mr. HEFNER. Mr. Speaker, I yield to the gentleman from Cumberland County, North Carolina (Mr. MCINTYRE).

Mr. MCINTYRE. Mr. Speaker, I am happy to represent Cumberland and Robinson and seven other counties that are in our home area, particularly because, as I thank my distinguished dean of our delegation, the gentleman from North Carolina (Mr. HEFNER), and distinguished colleague, and join these other distinguished colleagues from the Tarheel State, because Terry Sanford did spend much of his time in our congressional district that I represent currently, in Fayetteville and Fort Bragg, and grew up in the town not far west of my hometown of Lumberton in the neighboring district of the gentleman from Laurinburg, North Carolina (Mr. HEFNER).

When we think about Terry Sanford, we think about the influence, I would dare say, from another angle of an educator, knowing that his influence was, indeed, infinite; that a great educator knows how to pass on his ideals from generation to generation; that he can improve and uplift the lives of scores of other folks long after the original teacher has moved on or passed on. Terry Sanford was the consummate educator and, fortunately, for us, his influence is, indeed, infinite.

A few weeks ago, when I joined my distinguished colleagues, not only from North Carolina, but other colleagues who serve in government and education and civic activities and church activities and in the military and from so many other spheres of influence back home in North Carolina and also here in Washington, we had 2,000 people gathered in Duke Chapel to honor a man whose power and influence was not only while he was sitting in the offices that he held, and we have heard the laundry list of those great offices tonight, but also by his influence personally.

When we think about those who were touched by him, we cannot help but think about the students at his beloved Duke University, where he was affectionately known as Uncle Terry. As an educator, they love nothing more than to see his boundless energy and exuberance that comes with youth.

He was blessed throughout his life to influence folks of all ages but especially the young in my generation, to empower scores and scores of young people, to be involved, yes, in politics, but beyond politics, to be involved in their communities, to be involved in serving their State and their country and whatever their calling might be.

When Terry Sanford entered into the North Carolina Governor's mansion in 1961, North Carolina ranked next to last in national per-capita income and was mired in the social and racial morass that plagued all other southern States. At a time when other governors across the South resigned themselves to the moment and were closing the door to all but a selected few in society, Terry Sanford opened the door.

He saw through the fog of hatred and repression and put North Carolina on a course where it is today, a leading center for technology development in the South, and now a State that ranks among the top 30 in the Nation for per-capita income.

The resources that he helped generate to improve public education were for all North Carolina students and established a statewide system of community colleges so that every student in the North Carolina public schools would have that opportunity to attend an institution of higher learning.

I dare say that the HOPE Scholarship passed by this body just last year in North Carolina would have not been anywhere nearly as meaningful if it were not for the fact that this crowning jewel in Terry Sanford's tenure as Governor came to being during his watch, our great community college system.

Indeed, Sanford's commitment to education led to his moniker as the original education Governor. It also led to the creation of the North Carolina School of the Arts, the Governor's School in Winston-Salem, the Learning Institute of North Carolina, the North Carolina Fund, and also higher teacher salaries for men and women who play such an integral role in the lives of our children. When we think about the opportunity for education, for economic development, we think about Terry Sanford.

Terry Sanford loved challenges. He loved also to issue them because he was a master at challenging people in a manner that would ultimately result from those around him realizing greatness themselves or at least recognizing that the things that they sought to achieve were, indeed, obtainable.

Terry Sanford taught us that democracy is not a spectator support. He spoke often of the Declaration of Independence and the Constitution, two documents that serve as both the cornerstone and foundation of our Nation and government. These two documents are filled with words such as ensure, promote, establish, provide, and secure, words that, as Terry Sanford himself pointed out in his own writings, and I quote, connote action and all suggest, he said, that we must constantly be striving to improve the opportunities of all people.

☐ 1930

Terry Sanford set a high bar in that effort. While some politicians see political office as an end to a means, the fulfillment of a desire for their own fame or power, Terry Sanford viewed it purely as a means to an end. He viewed public office for what it should be, as the most effective means to fix what was wrong, to serve the public, to improve the lives of citizens of North Carolina and the South, and, indeed, the United States. His unfaltering belief in people, his rock-solid fidelity to his ideals and values, his boundless energy in fighting for those ideals and values, proved to be the right mix for nearly half a century of public service that has left so many positive marks on our State and, indeed, our Nation.

Yes, Terry Sanford set a high bar, but he never did appreciate easy challenges, and nothing would please him more than for us to pick up that challenge and to aim for that bar, no matter how high it may be set, so that we ourselves can attain those things which seem unattainable, for it is in that quest that we will undoubtedly recognize achievements that we may have thought were impossible; it is in that quest that we will provide a better life and improved opportunities for the people we represent; and it is in that quest that we will ensure that the legacy of a man instrumental in the history and future, not only of our great State of North Carolina, but, indeed, of our great Nation, lives on forever, just as the teachings of a true educator should.

I thank the gentleman from North Carolina (Mr. HEFNER) for yielding to me.

Mr. HEFNER. Mr. Speaker, I yield to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Speaker, I thank my colleague for yielding time and for taking out the time to honor our friend and colleague Terry Sanford.

Before I do that, I want to pay special tribute to the dean of our delegation, who, much to the consternation of all of our Members, has decided that he is stepping down after this term in Congress. We are going to miss him immensely for the wonderful contributions that he has made to the State of North Carolina and to our country.

But, of course, tonight is not about the dean of the delegation. We are going to take out a special order for him and roast him when the appropriate time comes.

I want to spend a few minutes this evening talking about my friend, Governor-Senator-President Terry Sanford. It is really hard to know where to focus your attention when you talk about Terry Sanford because there are so many wonderful contributions that he made to the State of North Carolina and to our country.

You could take any one of these contributions and devote long, long periods of time, much more time than we have this evening, to talk about them, whether you were talking about his role as a war hero; or his role as the champion of public education, who initiated numerous programs to support public education in North Carolina and was instrumental in having the budget for education, public education, grow in North Carolina by leaps and bounds during his tenure as Governor; as the person who originated the idea of community colleges in North Carolina and nurtured them; or as the person who established the Nation's first Governor's School, to provide free educational and enrichment to gifted and talented high school juniors and seniors, which 100 other programs now exist in 28 States copying that program; or as a champion and great supporter of the arts and arts education, and the person who conceived the idea and nurtured the idea of a North Carolina School of the Arts which has turned out so many wonderful artistic people, professionals, outstanding artists, performing artists and dancers and the whole range of artists in our Nation; or as the Governor who was ranked as the 20th Century's Most Creative Governor by Harvard University; or as president of Duke University; or as a member of the United States Senate.

You could select any one of those things and talk for hours on end about the contributions that Terry Sanford made to North Carolina. But, having put those things in the record and heard my colleagues talk about some of them, I want to focus on one thing that I think for me personally is the mark of this man.

Imagine yourself in the early 1960s in the South, governors standing in the doors of schools to keep black students from integrating those schools; governors saying we are not going to allow our higher educational institutions to accept black students; demonstrations taking place throughout North Carolina and throughout the South for the opportunity for black people to sit at lunch counters and sit in restaurants and eat; and all throughout the South, governors were taking the position that ''We are going to take the course of maximum resistance.''

But in North Carolina, Governor Terry Sanford was serving from the years 1961 to 1965, and Governor Terry Sanford stood up as one of the only southern governors at that time and said, ''Black people are Americans, and they deserve rights that are guaranteed to American citizens under our Constitution.'' He took a leadership role on that front, and North Carolina is a different State today, the perception and reality of North Carolina are different today as a result of that stand.

During his term as Governor of the State, he appointed more minorities to government posts in his administration than any of his predecessors had ever done before.

There was a time in 1963 that I enrolled at the University of North Carolina. It seems so long ago when I showed up on that campus, and I had three white roommates assigned to room with me in a four person room. And by the end of the day, every single one of them had moved. That is the atmosphere that we were operating in in North Carolina and in the South at that time.

Terry Sanford stood up and said, ''We will abide by the law. Minorities are citizens. They deserve the protections of the law. They deserve the protections of the Constitution,'' and North Carolina is a different place as a result of that.

So among all of these things that I could focus on about Terry Sanford, for me as a member of the minority race in North Carolina, for others who are minorities in North Carolina, for others who like to brag about the progressive image that North Carolina has, for others who understand that all of us are created equal, Terry Sanford is our hero. Terry Sanford stood up when other people were sitting down on the job.

For that reason, I want to thank my colleague, the senior member of our delegation, for giving us the opportunity to say these few words about our deceased friend, Terry Sanford. I hope that we will remember those impassioned positions that Terry Sanford took, and remember that not long before he died, in an interview he said, ''We almost have the same problems we had then. Race is far from solved, despite what people say. Children are

still neglected. The working man is somewhat improved, but he still puts in more than he gets out.''

That is what Terry Sanford stood for, making sure that working people, minorities and every single citizen in North Carolina got what he deserved, and the benefits of being an American citizen and a North Carolinian.

I yield back to my good friend, the dean of our delegation.

Mr. HEFNER. Mr. Speaker, I now yield to the former Superintendent of Education in North Carolina, now the Congressman from North Carolina (BOB ETHERIDGE).

Mr. ETHERIDGE. Mr. Speaker, I thank my friend, the dean of our delegation. As my colleague from the 12th District said, we are going to miss you greatly, but we will talk about you later.

I am honored this evening to have a few moments to speak about my good friend and a friend of many, Terry Sanford.

The first time I remember hearing Terry Sanford speak was at my commencement exercise as I graduated from college. I had heard of Terry Sanford, the man of vision, but he had a special way of letting you feel special, and challenging individuals to really get involved in their State and their Nation.

But tonight I would say that Terry Sanford was not simply a great and admired politician. He was one of the most accomplished Americans of the 20th century. I remember listening to his eulogies at the funeral several weeks ago, and I could not help but think that those eulogies coming about an individual who served four years as Governor, not four terms, four years, serving one term in the United States Senate, serving as a college president, could have been for five or six people for the things that he had accomplished, because Terry Sanford served his State and his Nation with enthusiasm, with bravery, and with distinction in so many ways.

He fought for his country as a paratrooper in World War II and was decorated any number of times, and he was proud all of his life of the time he served his Nation in Normandy and all across Europe. He served as an agent with distinction in the Federal Bureau of Investigation. During those times he could have been exempted from serving in the military, but he did not. He wanted to serve.

As you have heard this evening, he served as a statesman in the North Carolina General Assembly, and there he laid the foundations of many of the things he would do later as Governor and as Senator to improve our State.

As Governor of North Carolina for only four short years, he laid out a record of improving public education that is unparalleled anywhere in this country. He expanded educational opportunities, as you have just heard, for all North Carolinians, no matter what a person's race, creed or economic opportunities might happen to have been. Maybe that came because Terry Sanford's mother was a teacher, and she encouraged him and she really instilled in him the great need for public education, for which he gave her much credit throughout his life.

Terry Sanford was a guiding force in building one of the finest community college systems, in my opinion, in this country, and you have heard about that this evening.

I think Terry Sanford deserves a great deal of credit for creating the first State-sponsored residential training school for the performing arts in the United States, at a time when no one would have thought it would have been created in the South. The North Carolina School of the Arts, which can now say they have in their list of graduates individuals who have received the Oscar in acting, who have received many Emmys, and they came through the School of the Arts created during his administration.

Governor Sanford had a distinct and heavy responsibility, and was one of the people who helped create the Research Triangle Park that is one of the leading parks in this country, that employs thousands of people in North Carolina every day.

□ 1945

He created the Governor's School, as my colleagues have heard, that I had the real privilege as superintendent to oversee during my term there, and it provided opportunity for over 400 bright and creative young people every year at two sites to get an educational opportunity, and it has been modeled across the country. He created the Education Commission of the States that now helps educators, governors and chief State school officers work together to improve education in this country, a legacy that is so important.

Governor Sanford, as my colleagues have heard, was one of the southern governors of his day, I would have to say, that was rated as one of the top 10 governors in America by Harvard. But as the gentleman from North Carolina (Mr. WATT) said, one of his great legacies was that he was one of the, maybe the only, there may have been others, but the only southern governor who was the first to stand up and look in the ugly face of racism and say, no more, and it will not happen on my watch in my State. And he deserves a great deal of credit for that.

Mr. Chairman, as President of Duke University for 15 years, he transformed a regionally known, small southern university into a world leader in medicine, law, religious studies, education, and the arts. Today, Durham, North Carolina is known as the City of Medicine, and they are known for that in my opinion because Terry Sanford provided that engine in Duke University in that great medical school.

As a United States Senator from 1986 to 1992, Terry Sanford fought tirelessly and selflessly to improve the lives of his fellow citizens through fighting to improve again public education, promoting racial healing, and fighting to eradicate poverty as he had at the local level.

After he left the Senate, he did not go home and start collecting his coupons or rest on his laurels, he started two law firms. My goodness, that would be a lifetime for anyone. He did it in the short years after leaving the Senate. He lectured on public policy issues at Duke University in the public policy institute building that currently bears his name. And most recently, he led a $100 million fund-raising campaign to create a world class performing arts center, an institute in North Carolina.

Terry Sanford exemplified the best qualities mankind has to offer, and we owe a debt of gratitude for his undying service to his native State and to his fellow Americans. Terry Sanford provided a guiding light for a whole generation of educators, public servants, and other State and national leaders. He was and will remain a beacon for all good things about humanity and about being an American. God bless Terry Sanford, his family, his State, his Nation, and all of those who, like me and my colleagues on this floor tonight, who have stood on his broad shoulders.

Mr. Speaker, I thank the gentleman from the eighth district, the dean of our delegation, for organizing this hour. I thank him for this opportunity to say a good word about our good friend, Terry Sanford.

Mr. HEFNER. Mr. Speaker, as dean of the North Carolina delegation, I would like to say a few words on behalf of a man whose friendship and professional generosity has meant a great deal to me.

Terry Sanford was at different points in his life a practicing attorney, State Senator, governor of North Carolina, President of a major university, a United States Senator, a civic leader, novelist, father and husband, and a true entertainer. In fact, one could live one's whole life without meeting a man that had his range of talent.

But then, Terry was no ordinary man, he was really a bit of a legend; and there were a lot of stories that circulated about Terry Sanford and some of them were funny and some of them were sad, but there was one story that was told to me about when Terry was campaigning for governor. He went up into the Blue Ridge Mountains of North Carolina, and there was a bunch of mountain folks sitting around an old country store and he went in and he introduced himself, and this one fellow said Terry, he said, I would like to know how you feel about some subject, and Terry said, why, you know how I feel about that. I have told the people across this State, I bet I have told them 100 times how I feel about that. And the guy said, well, we just wanted to hear you say it.

Neither one of them actually knew what the question was, but Terry Sanford had the capacity to laugh at himself and to be serious and get the job done, doing things what he called the North Carolina way. He once asked the people in our State to join him in an audacious adventure of making North Carolina all it can and ought to be, and then, true to his word, he spent the next 40 years showing us how. I want to emphasize that last statement: Showing us how. Because the ability to lead by doing was not only the mark of this man's career, it was the bedrock of his character.

When he was governor of North Carolina in the 1960s, Terry played a risky card by taking the race issue head-on, as my colleague so mentioned. It did not matter to him whether it was popular or not and he did not look at all the polls and the focus groups and what have you, he just felt a moral responsibility to it. Where a lot of men go soft, he drew a line in the sand. He took the issue of racism above politics, even though the politics of a lot of southern governors at that time was fear, and he challenged us not to just know better, but to stand up and do better, and that challenge did not end with just race.

He once said that North Carolina could only be as great as the poorest among us. He believed he did not have to have power or money to get an education, and he pushed for increased funding of public schools. In fact, he funded the State's first community college system. This was a saying that stuck with me: Develop the mind, he said. Develop the mind, and the job will follow.

At that time the North Carolina Constitution barred the governor from succeeding himself, so Terry left to take a job running Duke University, and for 10 years he used his touch to make the school famous across the world. He started a school of public policy and doubled the size of the medical program, and at a time when a lot of presidents of colleges were under attack and did not have the respect, but the students loved him, they loved Terry Sanford. And at his urging, even the student section at Duke University, which was famous for its colorful language, they even toned it down a notch because Terry was such an influence, and they could be heard shouting, we beg to differ, we beg to differ when the referees made a decision that they did not agree with.

In 1987 he was elected to the United States Senate, and I remember it very well. We stood at the mill gates and we went all across my district and we met with a lot of people and there was a commercial that came out, and this lady, and of course Terry was then 70 years old, and this lady came on and she was berating Terry Sanford, ''Terrible Terry Sanford,'' for raising the food tax. And he kind of turned it around and made a joke out of it and he referred to it as that commercial with that whiney old woman on it. And he did not mean any disrespect, but he wanted to point out how ridiculous it was for all of the things that was accomplished in his administration, and he got the name, right or wrongfully, I think wrongfully, of ''Terrible Terry,'' and it went with him to his grave.

In 1993 he went back to private life and took his work ethic with him. He wrote books on policy, started a novel, opened a second law firm, as my colleague alluded to, served on a dozen corporate boards, and became director of the Outward Bound program, as well as a participant. In fact, at 63 years old, he broke a bone in his back during a hiking trip in Oregon when he jumped off a 40-foot cliff into the river, which he admitted that was bad judgment at the time.

When the doctors told him that he had cancer and gave him 2 months to live, he told his family, do not worry, I will beat it. If anybody could have beaten it, it would be Terry. We have a motto in North Carolina that is on the State seal. It is a simple one, but I like it best because it cuts right to the point, and it means, ''to be rather than to seem.''

Terry Sanford followed that motto for his State, he followed it for his country, for his friends and his family, and he made it a goal the rest of us could not only shoot for, but believe was possible. For that, Terry, for your guidance, for never turning back, and for asking us to be brave, we are eternally in your death. I think I speak for every person in the State when I say that as much as your achievements have changed our lives, we will remember them forever in our heart.

There is a great old verse from a gospel song that I think just fits Terry Sanford and it goes something like this:

I'll meet you in the morning with a how-do-you-do, and we'll sit down by the river, and with rapture our acquaintance renew. And you're going to know me in the morning by the smile that I wear, when I meet you in the morning in that city that is built four square.

Enjoy your rest, Terry. You will be dearly missed, and you have been a great influence on so many people in this great country, and your being on this Earth for these years, you have truly, truly made a difference.

Mr. Speaker, I yield to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank my colleague for calling this special order about a very special person, Terry Sanford. I am very moved to hear the words of my colleague, and as our other colleagues from North Carolina as they extend condolences and pay tribute to Terry Sanford.

The gentleman from North Carolina (Mr. HEFNER) is right. Terry Sanford was a very, very special, unique person. We were blessed, those of us who had the privilege to know him and the people of North Carolina were indeed blessed to have him as their governor and their United States Senator. As we all know, he loved North Carolina, and he loved the people that he served there. He loved them so much he wanted the best for them, and that meant an end to racism and support for education for all children. Of course, that was his political lifelong endeavor.

Terry Sanford, one of the reports of his passing said that he died as he had lived, surrounded by new projects to be involved in, but we all know that he had died as he had lived also being surrounded by his magnificent family and so many friends, and my condolences on behalf of my constituents to Margaret Rose and to Terry's wonderful family, his children and his grandchildren on his passing.

□ 2000

He has made a significant difference in the lives of people across the country, not only in North Carolina, because he served as a model, a real model as a southern Governor. He transformed the southern governorship. He, more than anybody, brought the South into a modern era in terms of education and fighting to end racism.

I first got to know Terry well, although I admired him from afar, when we were both running for chair of the Democratic National Committee. Neither of us won. I ended up throwing my support behind Terry, and still neither of us won, but he ended up being a United States Senator and I ended up being a Congresswoman from California, so we do not think we did too poorly, as it all turned out. But I was very, very proud of our friendship, and was the beneficiary of much of his political wisdom and advice in the course of that race, and subsequent to that.

Of course, after that he went back to become the head of Duke University, of which he was very proud. He said, ''Of all of the things that I have done, the fulfillment of my professional life was Duke. I went there with a concept and I think with a mandate. I went out to make it a nationally recognized school,'' and of course, he did. The institute there, the Sanford Institute, is named for him, the Institute of Policy Science, Political Science Affairs, as the gentleman mentioned.

Terry first started getting involved in politics when he was 11 years old. His first taste of it came when he was marching in a torchlight parade for presidential candidate Al Smith in 1928 in Laurinburg, North Carolina. He carried a sign that read, ''Me and Ma is for Al.'' So he had it in his system, that fever in the blood, early on about it being very appealing, and also wanting to be a public servant.

Ironically, when I said that we became friends running for chair of the National Committee against each other, but became very fast friends after that, ironically, Hubert Humphrey had offered Terry the job of Democratic National Chairman in 1969, but Terry turned it down at that point. It was probably not to be.

At any event, he had bigger things in mind, and that was really the education of the children of North Carolina at every level, including higher education, and in the Senate, to be a fighter, and he was a peacemaker, bringing peace in Central America; again, fighting for education for all of America's children, and an end to racism.

We could probably all go on for a long time talking about him, because he was a very special person. In the course of our lives in politics we work with many people whom we respect and we admire, but we all have to admit, as wonderful as we think each other is, that there are some people who are very special, and Terry was one of those. One of the sad things, I think, is that he never became President of the United States. I always thought he would be such a great President.

Instead, he brought his leadership, his scholarship, his dignity, his grace, his kindness, his love for people to the wonderful challenges that he had, which were not inconsiderable: Governor of the State, a United States Senator, and as he said, a president of Duke being his crowning glory.

In some of the obituaries, his family has to take great pride and satisfaction in the obituaries that were written about him. But throughout his life I think he was held in such high esteem and respect that everybody knew when you worked with Terry Sanford you were working with somebody that was a true leader.

It has been said that Terry Sanford set forth a standard for leadership as a Governor, university president, and United States Senator that few could equal. He leaves a progressive legacy to North Carolina, one of courage and one of hope.

He demonstrated his courage by being one of the first Southerners to endorse John F. Kennedy for President, one of the first Senators to endorse a Catholic for President; and we all know the hope and courage many times over, but that is just one example. His legacy will long be felt among the young people of North Carolina, and for future generations to come. I consider it a privilege to have known him.

Again, I express the condolences of my constituents, because in California he is well known and well respected. I extend their condolences, as well as those of my own family, to the Sanford family, and thank the gentleman from North Carolina (Mr. HEFNER) for allowing me to be part of this special order for our special friend, Terry Sanford.

Mr. HEFNER. I thank the gentlewoman from California, Mr. Speaker. I would also like to thank all the people that participated tonight in these remarks about Terry Sanford, and for those that will enter remarks for the RECORD, it will be open for 5 days.

Truly, this has been a time when people thought back to the things that Terry Sanford stood for, and we will always remember that Terry Sanford was a real remarkable man, and he will be a legend, as he should be, in North Carolina and in America.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H. J. RES. 119, PROPOSING AMENDMENT TO CONSTITUTION TO LIMIT CAMPAIGN SPENDING, AND H.R. 2183, BIPARTISAN CAMPAIGN INTEGRITY ACT OF 1997

Mr. SOLOMON (during special order of the gentleman from Colorado, Mr. BOB SCHAFFER) submitted a privileged report (Rept. No. 105–545) on the resolution (H. Res. 442) providing for consideration of the joint resolution (H. J. Res. 119) proposing an amendment to the Constitution of the United States to limit campaign spending, and for consideration of the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes, which was referred to the House Calendar and ordered to be printed.

Mr. HOYER. Mr. Speaker, on April 18, 1998 Senator Terry Sanford died at the age of eighty after a long battle with cancer.

He was a Governor, a Senator, a two-time Presidential candidate, a lawyer, an author and a president of Duke University.

Growing up in the segregated south, the town of Laurinburg, North Carolina, young Terry learned the value of hard work and money from the abject poverty his family lived in after his father's hardware store went bankrupt.

After a stint as a paratrooper in Europe during World War II, Terry Sanford returned to his native North Carolina to attend the University of North Carolina law school and to become the progressive voice of the Democratic Party in North Carolina.

In 1960, Terry Sanford ran for Governor of North Carolina and faced a spirited campaign against an avowed segregationist.

He was forced into a run-off but won with 56% of the vote and went on to become Governor of the State of North Carolina.

Terry Sanford assumed the governorship at a very turbulent time in the history of North Carolina and the South.

The historic sit-in at the lunch counter at Woolworth's began just weeks after he assumed his office.

While some southern Governors were calling for resistance to this nascent civil rights movement and defended segregation, Terry Sanford called for moderation.

In his 1961 inaugural address, Terry Sanford called for a ''new day'' in which ''no group of our citizens can be denied the right to participate in the opportunities of first-class citizenship.''

Along with civil rights and integration, Terry Sanford also stood for education since his earliest days.

He created the community college system in North Carolina and the North Carolina School for the Arts in Winston-Salem and the Governor's School, a summer program for the most talented students in the State. He was recognized in a 1981 Harvard University study which ranked him as one of the Nation's top 10 Governors of the 20th Century.

Constitutionally prohibited from seeking a second term, Terry Sanford looked for a new challenge. He started a law firm and turned down quite a few excellent opportunities such as becoming United States Ambassador to France, before he assumed the presidency of Duke University in 1970.

At Duke University Terry Sanford doubled the Duke Medical Center's capacity making it a nationally recognized medical center and school and created the J.B. Fuqua School of Business.

Continuing his dedication to Democratic politics, in 1972 Terry Sanford campaigned in the Democratic Presidential primary.

Although he withdrew from the primary, Terry Sanford's ideas and ideals made an impact both in 1972 and during his second campaign for the nomination in 1976.

In 1973, Terry Sanford was elected chairman of the 100 member Democratic Party Charter Commission which rewrote the party's Presidential nominating rules.

He remained active in politics both in North Carolina and nationally.

In 1985, Terry Sanford retired from the presidency of Duke University.

In 1986, Terry Sanford ran for the United States Senate and defeated Republican Jim Broyhill.

During his term in the Senate, Terry Sanford was remembered as a thoughtful legislator who took an interest in international affairs and education.

He was a strong supporter of personal freedom and peace.

In 1992, Terry Sanford lost his re-election for a second term to a former Democratic ally of his, now a Republican.

One can only imagine what Terry Sanford would have accomplished in the United States Senate if he had been elected to a second term.

After his loss, Terry returned to North Carolina, advising political candidates and spending time with his family.

Mr. Speaker, Terry Sanford was a remarkable American.

One who understood the challenges of his time and rose to the occasion. While all too often public servants run from the pressing issues of the day, trying to avoid difficult decisions and choices, Terry Sanford did not.

His heroic stand against the status quo throughout his entire life, and his belief that he could make North Carolina and the United States a better place is what we stand here today to remember.

Mr. BURR of North Carolina. Mr. Speaker, tonight we have gathered to thank God for the life, the influence, the attitude, the service and the blessed spirit of Terry Sanford.

He served as FBI Special Agent, Paratrooper, Governor, Senator, University President, Husband, Father and Grandfather in his life of service to his family, community, state and country. Terry Sanford left a great legacy of good work.

Terry Sanford was a man dedicated to making the world a better place for those who were in need. He understood that by bringing people together much could be accomplished. Whether it was visionary goals for education or the advancement of the arts, I think it was his love of his country, his state and his family that drove him to succeed with every initiative he tackled. Terry Sanford was a very special person, willing and determined to do whatever he could to positively affect the lives of others.

When the history of North Carolina is finally written, a prominent place will be given to this man who will be missed, but forever loved by so many.

THE PAYCHECK PROTECTION ACT

The SPEAKER pro tempore (Mr. KINGSTON). Under the Speaker's announced policy of January 7, 1997, the gentleman from Colorado (Mr. BOB SCHAFFER) is recognized for 60 minutes as the designee of the majority leader.

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, tonight is one of those opportunities for the Members of the Republican freshman class to address the House, to use this special order as an opportunity to discuss many of the topics that come to our minds as new Members of the 105th Congress.

I want to use the occasion to discuss an issue that is very important to me and to members of the constituency that I represent out in the Fourth District of Colorado, and others perhaps may be here to join me tonight, as well. That issue is the Paycheck Protection Act.

The Paycheck Protection Act is a measure this House has considered previously this year, and it will come up again within the next few weeks. In fact, as campaign finance reform legislation makes its way to the floor, the Paycheck Protection Act is expected to be an integral part of the overall discussions. I myself intend to see to it that that becomes the case, and to fight vigorously, certainly as vigorously as I possibly can, to bring up the issue.

Let me describe the need for it, and what the Paycheck Protection Act is all about. The Paycheck Protection Act is a measure that was inspired by a certain level of abuse that takes place with respect to campaign fundraising.

Let me step back one moment and say that this House has spent considerable time discussing how we spend money as candidates, and in political parties, and in the political arena. It has spent time discussing different strategies to get us toward full disclosure, and how we disclose the kinds of campaign finances that candidates and politicians need to raise in order to put together campaigns.

This House has spent considerable time talking about how that information is accounted for through the Federal Elections Commission, and the rules that surround the Federal Election Commission's responsibilities, but rarely have we spent time talking about how the cash is actually raised, and who works to raise the money for political purposes.

In America, elections are a very important time in our Republic in maintaining a democratic republican form of government. It is a critically important time because it is the one time when the people are actually in charge and assert their authority in deciding which representatives will speak for them on the floor of the House, on the floor of the Senate, and as President. Americans have every right to participate fully and openly and voluntarily in that electoral process.

That last statement that I mentioned, that last word, ''voluntarily'', is the operative word here. It really is the basis for the Paycheck Protection Act. Because in America today, it is possible, in fact, it is very likely, that if you belong to a labor union or if you belong to any other political association that raises funds for political causes, and if you allow your membership dues to be collected through automatic wage withholding, it is likely, I say again, that a certain portion of your wages are siphoned off for political causes that you may or may not support. In fact, you may not even know that that is occurring.

So to those who find themselves members of these various organizations, the first thing I would do is ask you to doublecheck your paycheck, to look again and see if the money that you are sending to your union is really going toward collective bargaining, toward agency representation, or whether there are associated fees that necessitate spending a certain portion of your paycheck on various political causes.

These political causes may be campaigns for candidates like myself or any other Member of the House that runs for office every 2 years. It may be a campaign for a local race in your State, for State legislature, Governor, State Treasurer, county commissioner, city council member, whatever the case may be. It may be a ballot initiative or a ballot issue, one that perhaps is sponsored by a labor organization or a group sympathetic to labor unions, or it might be some kind of political education initiative, where the goal and motivation is to persuade voters to one degree or another to behave at the polls in a certain way.

All of these are legitimate functions of our government. They are essential portions of electing representatives at election time. But what should not occur in America is a condition where anyone is forced to contribute to a political cause either against their will or without their knowledge. Political participation in the United States of America must and should be voluntary, 100 percent voluntary.

The Paycheck Protection Act is a bill that is designed to ensure that political participation throughout the country is voluntary, and it does so by addressing the issue of automatic wage withholding and skimming off a certain portion of one's wages for political causes without their consent.

It is an issue that many, many Americans are concerned about. In fact, it is a topic that the Committee on Education and the Work Force has spent considerable time investigating, through various hearings at different subcommittee levels throughout the country. It is a topic that the Committee on Government Reform and Oversight has considered. It is one that the American people have considered as well.

Mr. Speaker, I would direct the attention of my colleagues to this chart here. When we went out in the field with a poll that we had commissioned, those who are working on trying to find a solution to this problem, back in October of 1997, we asked voters in general, and these are voters, I might add, from throughout the country, and in fact, this sample oversamples union households, we asked whether individuals approve or disapprove of a new Federal law that would protect workers' paychecks.

As Members can see, the results are pretty overwhelming. In the universe of all voters, 80 percent of them tell us that they support a change in the Federal law that would protect workers' paychecks. Only 16 percent of America's voters oppose such a law. The rest would have no opinion, of course.

When we ask members of a union household where their preferences lie in this regard, we find again that the results of union households are no different than the results of voters in general. Eighty percent of union households tell us that they support a Federal law that would protect workers' paychecks.

When we ask members of the teachers' union, the National Education Association being the largest teachers' union, and there is one other large one and some other smaller ones, but when we ask members of teachers' unions, 84 percent say they would support a Federal law that would protect workers' paychecks.

When we ask non-union households in general, once again, the numbers are not surprising, there, given what we have already learned from the other responses, 80 percent of nonunion households approve of a Federal law that would protect workers' paychecks, and 16 percent would oppose such a measure.

Let me talk about the 16, 16, 13, and 16 percent in these four different samples that, for one reason or another, support a law that allows the current state of affairs today, that allows a labor organization or any other political entity to siphon cash out of somebody's paycheck without their knowledge.

It is hard to believe that there would be anybody in America who supports such a thing, but apparently, when asked, there are about 16 percent of the American public that believes that this is somehow a good idea.

There are a number of reasons for that. Labor unions play a very powerful role here in Washington, lobbying in the halls of Congress. We see them all the time, whatever the bill may be. Sometimes it is trade measures, sometimes it is tax issues. Other times it might be matters of environmental regulation. It might be efforts to try to improve public education throughout

the country. Sometimes it is work force-related issues. It could be a variety of topics.

There are labor union lobbyists all over this Capitol, and if you are a member of a labor union and oppose many of the initiatives that have taken place to clean the air, to improve schools, to improve workplace safety and to try to create more jobs and wealth and to improve foreign trade and so on, if you oppose those efforts, as labor unions typically do, as represented here in Washington, then you might want other people who are your co-workers to pay for the message that you agree with here in Washington. But again, it is a very small minority of people who believe that taking cash from an unsuspecting wage earner's paycheck is a good idea.

Once again, let me restate that. There are a handful of people here in Washington who believe that they have some kind of right to take your cash, or an unsuspecting wage earner's cash, and use it to promote the political objectives of their minority opinions. So that is why we have 16 percent of the American public, when surveyed, who agree with that sort of thing.

The vast majority of Americans, however, understand fairness when they are looking at fairness, they understand unfairness when they are looking at such a travesty as involuntary campaign contributions. I would use a different term, and that would be ''theft.''

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Union members are fed up with the practice, frankly, of forced union dues and forced union dues being used for political purposes. Multiple national surveys of American workers have revealed widespread support for ending this practice.

One of the other questions we asked, and it is very closely related to the previous one that I went through, but this question does not even reference any existing law. It just merely says, should we change or keep the current Federal election laws that allow unions to make political contributions with money deducted from a union member's paycheck. Well, 78 percent of the American people think that the current law needs to be changed; 72 percent of union households believe that the current law needs to be changed; 78 percent of teacher union households believe that the current law needs to be changed. And once again, reflected in the previous chart, 80 percent of all nonunion households in America believe that the current law needs to be changed, that something needs to be done to address this issue of political contributions with money deducted from a union member's paycheck.

Despite the widespread support, even the Democrat Congressional Campaign Committee is in the effort, has joined in the effort of trying to prevent paycheck protection from going forward. At the request of AFL-CIO's John Sweeney, the Democrat Congressional Campaign Committee is considering cutting off campaign funds to any Democrat who supports the Paycheck Protection Act.

I would refer the body, in fact I will go through in more detail in a minute or two, the news article from which I take that position. Federal and State paycheck protection efforts will force union bosses to play by the same rules that everyone else plays by. It is about time that labor bosses understand that the Constitution applies to them, too.

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, what an opportunity to yield on something that is very important. I was speaking about the campaign finance reform efforts that are coming to the floor very shortly; the rule that was just read across the desk is certainly the vehicle that will allow that to occur.

My intent is for the Paycheck Protection Act to play, to certainly be considered within the context of that overall debate. There are several reasons why the country needs the Paycheck Protection Act. According to the Center for Responsive Politics, in the 1995–96 election cycle, labor unions flexed their political muscles by spending $119 million on Federal political activity. That figure includes $35 million on issue ads that the AFL-CIO says it spent, nearly 66 million in campaign contributions and $18.5 million on Federal lobbying expenses.

While unions are required to file financial reports under the Labor Management Reporting and Disclosure Act of 1959, these reports are arranged by type of expenditure; for example, salaries or administrative costs and so on, rather than by the functional category that the American public would understand, such as contract negotiations and administration and political activities. So you have to be able to apply a certain level of political sophistication just to understand the reports that are filed, since they are filed through the Labor Management Reporting and Disclosure Act.

The reality is that labor bosses did not fund political activities through legitimate voluntary contributions. Instead they plundered the paychecks of hard working union members. Many of these members were not even aware that their money was being used for political activity. The hearings that the Subcommittee on Employer-Employee Relations conducted revealed quite shocking testimony.

A woman named Jane Gansmann of West Chicago, Illinois who works for TWA, a member of the IAM union, said, ''The union never mentioned that my dues could be used for things other than collective bargaining. In other words, I was given only half-truths. I now realize the union was and is operating by misinformation.'' She submitted that through written testimony. She went on, I quote, ''I wanted to see a breakdown of where my union dues were going.'' She grudgingly said she could not, the local union official, in her notation here, when she went to a local union official, she grudgingly said ''She could not help me and stated that I could try contacting the IAM President. I then approached the union shop steward who advised me that if I demanded an audit, it would be very expensive and would cause increases in our union dues. She stated that if that happened, she would let everyone in our office know that I was responsible.'' Again, that was submitted in her written testimony.

She went on, ''I fear repercussions of harassment. The IAM recently listed the names of all current union dues objectors in the January 1997 issue of their Airwaves publication.''

This quote was given in written testimony to the Committee on Education and the Workforce Subcommittee on Employer-Employee Relations. I want to go on as to what the Paycheck Protection Act would do and how it would help in the case of Ms. Gansmann.

First, let me say that the use of compulsory union dues for political purposes violates a basic principle of voluntary political participation which is embodied in our Nation's Constitution. In 1994, 40 percent of union members voted for Republicans, for example, yet in 1996, less than 10 percent of labor PAC dollars went to Republican candidates. In Washington State, where 72 percent of the voters approved a paycheck protection initiative in 1992, over 40,000 union workers had the shackles of involuntary political participation broken. Originally 48,000 members of the Washington Education Association, again this is the teachers union in the State of Washington, 48,000 of them were forced to fund political activities against their will. Once the Paycheck Protection Act passed in the State of Washington, only 8,000 voluntarily succumbed to the union's political activities. That is a pretty remarkable statistic for the State of Washington. 48,000 union members had contributed to political activities knowingly or unknowingly against their will, sometimes with full compliance, yet after the Paycheck Protection Act passed and the law required that there be a checkoff, that you actually approve on an annual basis your willingness to voluntarily participate in union political activities, the number dropped from 48,000 in the State of Washington down to 8,000 contributors.

Well, today, very, very soon here in Congress, we can send a message to the labor bosses reminiscent of the message sent by colonists to King George. No taxation without representation.

In August of 1997, Kerry Gipe, who is a union member, testified to the House Subcommittee on Employer-Employee Relations. He said, ''I was told that joining the union was a mandatory part of working for the company and that absolutely no money was allowed to be used from our union dues for political purposes.'' Well, unfortunately for Mr. Gipe and millions of other

American workers, labor bosses continue to use compulsory dues for political purposes. According to some estimates, the unions spent as much as $200 million in 1996, that after you calculate many of the other expenditures that are reported far after and in different formats than are required at election time.

What the Paycheck Protection Act does is empower the individual worker. Employees will decide whether and to whom they contribute their hard-earned wages and they can revoke their authorization at any time. The labor bosses are so opposed to giving union members control over their own money that they have raised dues $1 per member to fund efforts to oppose paycheck protection nationwide. That was reported in the Morning Times March 20, 1998.

In the State of Oregon, labor unions are assessing their Members $60 each to fight the Oregon initiative equivalent to the Paycheck Protection Act. Are they labor bosses looking out for workers or union bosses trying to protect their six-figure salaries and potential, their political income?

We heard more riveting testimony in the subcommittee. John Masiello of Mooresville, North Carolina is an aircraft mechanic. He said.

I had been a member of the IAM for 13 years. I do believe that collective bargaining for a work force that performs a common service is a proper and efficient way to be represented for contractual matters. I also believe I am a client paying an association for service. The IAM does not see it that way. Instead, they assume the role of dictator and I am their subject.

Mr. Masiello went on, he said that,

The local lodge president immediately started a campaign to descredit him and all the other members who exercised their rights.

Let me stop there and digress for a moment about what those rights might be. In 1988, the Supreme Court, in a decision known as the Beck decision, ruled that any labor member, union member who pays dues can go back retroactively and get their cash back for those portions of their wages that have been withheld for political purposes. In other words, if you object, you go back to your union boss, under the Beck decision, and ask for your money back. Well, many people in the union will tell you that your rights are somehow protected because of the Beck decision. But Mr. Masiello's testimony explains how workplace harassment really prevents individuals in some occasions from exercising their workplace rights.

He said, I will read that portion again, that

The local lodge president of the IAM immediately started a campaign to discredit me and all the other members who exercised their rights. He did this with slanderous lies and character assassination. Letters were hung all over the workplace claiming we objected to paying any dues, we were against unions and equated with scabs. They stripped me of my membership. Told me that I was in bad standing with the union and disallowed me of any and all voting rights, including voting on contractual matters and strike votes. Months had gone by and the harassment had not let up one bit. To make matters worse, I was still paying what they had considered a full due. Not one penny of the overpayment was refunded to me. I was forced to take the local lodge president to small claims court. The union has no concept of individual freedom. They seem to operate in their own little world with no regard for an individual's unalienable rights or the Constitution of the United States.

Again, this was submitted in written testimony by John Masiello, Mooresville, North Carolina. He submitted this testimony January 21 of this year. And the record from that hearing and other hearings like them are replete with example after example after example of union members who join unions for legitimate purposes yet do not want their hard-earned dollars to go to a separate political purpose which they do not consent to, which they do not support, many times supporting candidates that the individual may actually oppose.

It is important at this point, I think, Mr. Speaker, for me to say that the Paycheck Protection Act, when introduced as House Resolution 2608, enjoys the support of about, if I remember right, 163 Members of the House of Representatives. When that bill came up for a vote on the floor, it enjoyed bipartisan support on both sides of the aisle. Yes, that is right, Democrats joining Republicans in supporting the Paycheck Protection Act, in supporting the rank and file hard-working Americans who deserve the right to direct their own hard-earned dollars to the political causes that they choose to associate with, or to avoid participating in the political process altogether. Within that context, the Paycheck Protection Act can almost be viewed as a pay raise without a tax increase, an added benefit that allows cash to stay in the hands of the individual who earned it rather than the union boss who will squander it.

All that the bill requires is that a corporation, any other corporation, national bank, any organization collect the written and voluntary consent from an employee or union member before using any portion of their dues or fees for the organization's political activity. This does not ban participation in political, in union political activities. In fact, it actually encourages it because it causes unions to ask their members to participate at least on an annual basis.

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They may ask more than that, if they would like. But it asks every individual to be confronted with the simple question of whether or not they want their cash to go to a political cause or not.

Now, I tend to have faith in the hard-working members of the labor force throughout the country. I think, when confronted with such a question, they will probably participate in their political system. They love America. They work hard for everything our great country stands for.

In fact, I would submit that they are at the very center of what it means to be real Americans, encompassing the age-old principle of honest hard work and strong families. And when given the choice, I think that they will participate. They will participate in the political process. They will vote. They may run for office themselves.

But the reason labor union bosses, as opposed to labor union members, oppose the Paycheck Protection Act is because it takes power away from a privileged few, who have found a way to manipulate the rules here in Washington over the years to create a situation where hard-earned wages can be siphoned away from the wage earner and spent on the political causes that a few labor bosses select, and to direct somebody else's cash to achieve their own selfish objectives. The Paycheck Protection Act restores fairness. It empowers rank-and-file labor union members.

Once again, Mr. Speaker, the campaign finance bill will be coming to the floor very shortly. The Committee on Rules, as we just received the report just moments ago, has indicated that it is moving forward to bring a bill to this floor to deal with the issue of campaign finance.

There will be several amendments that will be offered, several different aspects of campaign finance that will be considered, many of them good, many of them bad, many of them are certainly at the very least worthy of consideration by the House. But I will make the pledge tonight that I will do everything I can on behalf of hard-working union members throughout the country, the hard-working laborers who are currently having, in many cases, portions of their wages siphoned off for political causes they do not support. I will be working for them and bringing the Paycheck Protection Act for consideration over and over and over again.

The political stakes are high, and I know it will be another emotional issue, but I urge all Americans, I urge every Member of this Congress to consider very carefully the importance, again within the context of campaign finance, of how the money is raised. Once we deal with that, then it is legitimate and right and just to consider all the other issues with reporting, with campaign amounts, with how money is spent, how it is reported and so on.

The gentleman from Arkansas (Mr. HUTCHINSON) is here to join us this evening, who also plays an integral role in the campaign finance debate and has been a real leader among the freshman class, and I yield the floor to him.

Mr. HUTCHINSON. Mr. Speaker, I thank the gentleman and I want to express my appreciation to the gentleman for his leadership to the freshman class, as president of our class,

but also on the issue that the gentleman has been talking about, which is paycheck protection. The gentleman has devoted an enormous amount of energy and time to this issue and I congratulate him for that.

As the gentleman indicated, there is going to be an opportunity to vote on paycheck protection as well as other campaign reform amendments and ideas on the floor, starting, hopefully, tomorrow. And as the gentleman indicated, the Committee on Rules is preparing for that event, and I am delighted that the base bill that will be considered, whenever we debate campaign finance reform, will be the bipartisan Campaign Integrity Act, which again is called ''the freshman bill''.

This bill is fairly limited in scope as to all that it does, but it accomplishes very significant and substantial reform. And if the gentleman will continue to yield for a few moments, I would like to be able to talk about this particular bill that will be considered on the House floor.

This bill started out with a working group, six Democrats and six Republicans meeting together, building a trust relationship and saying what can we agree upon; how can we address the most severe abuses in our campaign system. This was 15 months ago. For over 5 months we have worked together and crafted a bipartisan bill that avoided the extremes. It stayed away from public funding of our campaigns, where we have taxpayers' money paying for the campaigns; it stayed away from free TV; it stayed away from the extremes that both sides might think would be ideal; and it concentrated on the middle ground, the ground that we could agree upon. And, yes, the American public can probably zero in on that very quickly, and that is a ban on soft money.

Now today in The Washington Post, David Broder, long time Washington journalist, wrote a column and talked about what is going to be happening on this House floor. He titled his article ''Campaign Reformers at War'', because there are going to be a number of significant reform bills. And I think it is important that we do not get in disagreement, recognizing there are going to be different bills and alternatives that we can vote upon.

I just want to present that the bill that has been crafted in a bipartisan fashion is a good vehicle to send over to the Senate because it is bipartisan, because it is constitutional, and because it is substantial in nature and addresses the most significant abuse, which is soft money.

David Broder, in his article, referred to soft money as, ''The huge donations to the political parties from corporations, unions and wealthy individuals that figured most in the 1996 campaign scandals.'' And that is important, because not just in 1996, but as we even come into the present with the latest revelations about the possibility of technology going to the People's Republic of China and the question arising in the public's mind, did that decision have anything to do with the huge soft money contributions that were made here in Washington.

What the Supreme Court is concerned about is that we protect the first amendment and the rights of free speech, but they have recognized in the Buckley v. Valeo decision that there is an appropriate role that Congress can play in restricting the amount of contributions. They upheld the $1,000 individual contribution limit, and there is a ban on corporate contributions and labor union contributions directly to a candidate. Soft money is a way to get around all that, and that is what needs to be shut down, and that is simply what the freshman bill does.

Michael Malbin of the State University of New York-Albany, an expert in the arena of campaign finance reform, said ''The freshman bill would do everything that a soft money ban should do, put a lid on the behavior of Federal officials and candidates.'' And that is what we are trying to do.

But, in addition, it helps the individuals in our society because it empowers them by indexing their contributions to the rate of inflation. Where a $1,000 contribution limit back in 1970 has eroded to $300, this again indexes that to inflation so we do not lose that value, the contribution of an individual.

And then we increase information to the public so the public will know who is trying to influence the campaigns; requiring candidates to provide more frequent disclosure as to who is sending them money so the public will have that information.

But, also, we have all of the third-party groups that are out there that engage, many times, in issue advocacy, and we simply say that they should have to say who they are so there is not a cloak as to the public wondering who is trying to influence the campaign. They must say who they are and how much they are spending, and that is it. That is reasonable information the public is entitled to have.

So it is a good bill. It is straightforward. It empowers individuals. It stops the greatest abuse. And that is what I hope that the public will see as strong reform that we can send over to the Senate, addressing the greatest abuses in our campaign system.

And yes, it is going to be a long process. A lot of amendments have to go through there. There are some that might improve the bill, but there are some that might be harmful. So we need to move through this process in a democratic fashion, and I believe in the end we will do something good for the American public.

I am delighted with the Republican leadership that has opened up this opportunity and for the bipartisan fashion in which we have addressed this.

I want to thank again the gentleman from Colorado for his excellent leadership on paycheck protection, his devotion to that issue, as well as his willingness to yield me time tonight.

Mr. BOB SCHAFFER of Colorado. Before the gentleman goes, I know he has been back in his district over the breaks talking about campaign finance reform and various issues that we are dealing with here to try to improve the integrity of the political process, so perhaps the gentleman will tell us a little about what his constituents are telling him with respect to campaign finance reform.

Mr. HUTCHINSON. It is interesting because the constituents are talking more about it. I have learned that it is a subject that they do not automatically bring up themselves, but whenever I have been out front and taken a leadership position on it, I have them coming up to me time and time again and thanking me for what I am doing on campaign finance reform.

I think what they are saying is, and someone articulated it this way, their $20 contribution, their $50 contribution is drowned out in the sea of big money in Washington, D.C., and that is the message that I consistently get.

I talk to grass root organizations, whether it is the AARP, the Reserve Officers, or a political action committee group or a labor union, I talk to these grass roots organizations and they are struggling to have their small contributions sent to Washington, and their voice is being minimized because of the flood of big money in Washington, and they understand that.

So I am hearing good things about it; support for it. They do not understand necessarily all the ins-and-outs and the difficulties of campaign finance reform and issue advocacy, express advocacy, independent expenditures, but they are saying there is a problem out there that is clear to everyone and Congress needs to address it.

Mr. BOB SCHAFFER of Colorado. We are also joined here tonight, Mr. Speaker, by the gentleman from South Dakota (Mr. THUNE), who I know is one who has been very helpful and thoughtful with respect to political participation and campaign finance reform, and I will yield the floor to him.

Mr. THUNE. Mr. Speaker, I want to thank my colleague from Colorado for yielding and for the great work he has done in spearheading this effort to liberate the paychecks of working men and women in this country from being robbed for a purpose with which they do not agree. And the gentleman from Arkansas (Mr. HUTCHINSON) as well has been a leader on campaign finance reform.

I suspect when it is all said and done we are probably not going to all agree on every issue of this, because I think we all bring a different perspective on what constitutes campaign finance reform. We have been trying to balance the constitutional rights of free speech, freedom of expression and so forth, and at the same time bring some common sense to what has become a proliferation of big money, special interest

money actually running this political process. As a consequence of that, many of the voters in this country, the citizens who would like to participate, feel disenfranchised simply because they feel their voice is not heard.

So I think our freshman class has been very much at the forefront of leading this debate, discussing these issues in a very meaningful way and coming up with what I think are solutions. Again, solutions in some cases that are going to have to go through this process that maybe we are not all going to agree with every aspect of, but when it is all said and done, at the end of the day, hopefully, something will emerge that will be an improvement over where we are today, that will help restore the trust and confidence people have in the political system in this country.

So I want to thank my distinguished colleagues of the freshman class, the gentleman from Colorado (Mr. BOB SCHAFFER) and the gentleman from Arkansas (Mr. HUTCHINSON) for the good work they are doing on this subject and continuing to keep the faith and keeping the process moving forward. We are going to have, I think, what will be a rather vigorous debate in the days ahead on this subject.

I would simply say as well that, in discussing the whole issue of allowing the hard working men and women in this country to be an active part of the political process, that this majority in this Congress has taken our agenda forward in a way that I think is consistent with the priorities and the values that a lot of the people who work hard in this country really share, when it comes right down to it.

And the gentleman talks about paycheck protection and seeing that we do not pick the pockets of hard-working men and women in this country and force them to participate in a way that they do not want to. Political participation as a basic premise ought to be voluntary. And that is essentially what the gentleman's legislation says, and I would hope that that will be incorporated in a final product that emerges from this Congress.

At the same time, we want to say to those hard-working men and women in America that we want them to participate voluntarily, we want to give them more freedom, more liberation from the shackles of big government, not only as it pertains to political participation but also in the way that we approach the whole issue of taxes, the role of government in our culture and what that means for people in this country who are trying to pay the bills, trying to educate their kids, trying to make a living, trying to put a little aside for retirement, trying to take care of child care and health care and working in a very systematic way to roll back the burden of government in their lives so that they have the freedom, as families, to make the choices that affect their every day lives.

I think, again, that is a philosophy and approach that is embodied in everything that we do; that these things ought to be voluntary; that it ought to be a matter of personal freedom. And I think the thing that gets lost in this debate a lot of times, people who are members of unions in this country use that representation to negotiate, to bargain on issues like health care, on pensions and wages. Those are very good things, but sometimes I think their leadership loses sight because their agenda, I believe, is more about consolidation of power in Washington.

And that is very much at odds, I think, with what I think is in the best interest of the people they purport to represent, and that is the hard-working men and women who, day in and day out, are trying to make a living and trying to pay the bills. We are saying to them, in effect, in the agenda we have laid out, that we want to make government smaller and make the Federal budget smaller so that their budget, their family budget, can be bigger, and that we want to allow them to keep more of what they earn.

☐ 2045

And in doing so, liberate them from the burden of government in a way that will enable them to meet the needs that they have for their families and the challenges and difficulties that are out there for all of us who are trying to raise kids in this day and age.

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, reclaiming my time, my colleague has made an important distinction that I think is important for this Congress to keep in mind; and that is that many people think that this debate is about whether we support labor unions or not, and it really is not that at all.

There is a huge division among people associated with labor unions on paycheck protection. There are those who are the rank and file hard-working union members who join labor unions because they desire collective bargaining, they want agency representation, they want the many benefits associated with labor unions, but they want to have some say in how their wages are used when it comes to politics. That is one subset of the overall union organization that has a position on this issue that agrees with my colleague and I.

The other half of the equation, though, is the union bosses, those who work their way up the union hierarchy and become the managers, in fact the players, on a political level of distributing political cash for their advantages. There are many political bosses I am sure, and I have met some of them, who are genuine in their desire to represent their union to back political causes that are in the best interest of creating jobs and workplace security for their members.

But when we start reading headlines about Teamster Union members indited, the president of the Teamsters Union being disqualified from carrying on his job. That was Teamster President Ron Carey and James Hoffa, Jr. And now I guess there is going to be another election and Hoffa is clear to run. This is just in the Teamsters Union.

In this article, this was in the Washington Times not long ago, there is an individual who was an accountant or the comptroller of union funds was charged with embezzlement, conspiracy, wire fraud, mail fraud, perjury, making false statements to a Federal election officer. If convicted, he faces up to 30 years in prison and $1.5 million in fines.

This is a different group of people that we are talking about who oppose the Paycheck Protection Act. And this is the reason why, they have a tremendous amount of cash at their disposal and it buys them certain favors with Members of Congress. It buys them easy access to meetings that go on here in Washington. It buys them friendship with those who are inclined to listen to these particular individuals.

But again, these kinds of people who are at the union boss level, the ones who are in the business of being political insiders are very, very different from the people that my colleague will and I represent, the ones that we care about and the ones that we fight for and speak for here on the House floor, those individuals who are actually doing the hard work of driving the American economy, the ones who work 40 hours or more per week, who are very skilled and very dedicated to economic prosperity in our country, who have families, who go to church, who enjoy their constitutional rights, who enjoy full participation in our community as real leaders and friends and neighbors. But the last thing they want from this Congress or from anyone else is to allow a set of laws to continue on our books that allows union bosses to steal cash from the paychecks of hard-working Americans.

I am really looking forward to this debate coming up here in the next few days so that the American people can see whether this Congress is really going to stand with the rank and file hard-working Americans or whether it is going to choose the few union bosses.

I regret to say that the last time this question came up the political stakes were very, very high here. And those lobbyists running around the hallway representing the union bosses, they were very persuasive with a large number of Members of our Congress.

So I am hopeful that the American people will put their collective foot down this week and just say enough is enough. Politics in America should be voluntary. It is the one time when everyday rank and file citizens are in charge of their government. It is when they elect somebody to go to Washington and when they put their dollars behind their candidacy. People want to know that their dollars matter, that their political participation really counts, that their candidates, their elected officials listen to them.

But they do not want to hear, as we do today, and I will going through those graphs again perhaps, they do not want to hear that their message is getting confused and distorted by a handful of political insiders who use hard-earned cash as though it were monopoly money.

Mr. THUNE. Mr. Speaker, if the gentleman will continue to yield, I guess I would simply say that my guess is that perhaps like the district that my colleague represents, Colorado, people that I represent, the State of South Dakota, the people that I serve, whether they are union members or not, are very much just hard-working people, who, as a basic premise of life, think that these matters can best be resolved at the local level, that the decision-making, the control, and the power ought to be there, and that they ought to have the freedom to determine how best to use the hard-earned dollars, those dollars that they work very, very hard for week in and week out, to the purpose for which they intend, rather than having someone say to them that this is not a prerogative that they ought to have.

I think again what we are really talking about here very simply is saying that this ought to be a voluntary process and clearly the people who are forced to participate against their will and political process that that is wrong.

I have heard the argument, as perhaps my colleague has, that other organizations out there that are active politically, gun organizations, whether they are pro-life organizations or whatever, that these organizations do essentially the same thing.

There is a very fundamental difference here. People who participate in those organizations do it of their own volition, they do it of their own free will. It is a voluntary thing. Again, this is the only place that I am aware of where folks are forced as a matter of practice, if they want to participate in union activities, the other things, that the benefits that they get, legitimate activities from union participation and involvement, but beyond that have their dollars taken out of their hand and put into a political process into an agenda which in many cases they might agree with.

Now, if they agree with that agenda, that is fine. It does not deprive them of the opportunity to contribute. Because very clearly, that is an option they still have. Under my colleague's legislation, if they choose to do that, it is, it is a voluntary thing.

All we are simply saying is that when we look at these issues, we want to look at what is in the best interest of the working people, the people out there who are just doing their very, very best to get by and to survive and to do all the things, that the expectations, the responsibilities to live up to those responsibilities.

Frankly, people who work hard for a living I think are very much of a notion that there ought to be a leveler degree of personal responsibility that goes along with freedoms that we enjoy in this country. And frankly, again, I think that is a value that we share in much of the legislation that has been passed since this majority has been in power here in Washington, from welfare reform, to balanced budget, to lower taxes. All those things I think again are consistent with the values that people who work hard in this country share.

And so, as we look down the road in the future on the agenda we want to bring, the things that we want to see happen, the goals for the next generation, things like winning the war on drugs, things like coming up with a system of education and learning that is the very best in the world that utilizes information-age technology and allows the children, our children, to learn at the very fastest rate, issues like solving for the long-term the retirement issues of Social Security and Medicare and doing it in a way that protects and preserves the safety net for those who are currently dependent upon those programs, but at the same time says to those people who are paying in and again contributing to this process that we want them to have the very best retirement possible in a way that would dramatically increase their retirement earnings so that when that time comes they have got a nest egg there, and solutions that again say to the American people that we want them to have the security, the retirement security that Social Security provides and Medicare provides, but we also want them to have better than that. We want to improve upon that because we think that we can do better.

And in this era where we are going to see we hope, knock on wood, some surpluses coming into the Treasury and some revenues that will give us an opportunity to give something back to the American people, I would hope that is the direction in which we will go. And finally, again to say that the other goal, objective, that we have is to reduce the tax burden in this country by about a third of what it is today collectively, state, local, Federal tax burden, about 38 percent, and get it down to 25 percent, so that no hard-working family in America is spending more than a quarter of their income to pay for the cost of government.

And when we are living in a time where we are at peace and we have got an economy that is in an expansionary phase, the question, the debate that is going to rage in this city has to do with control, it has to do with whether or not we are going to continue to centralize, consolidate and move power and control into Washington or whether we are going to distribute it back home and put it back in the hands of individuals and families and states and localities and let people do in this country what they do best, and that is continue to move this economy forward, to contribute out of their productivity and their hard work and their effort and their just day-to-day diligence in getting up every day and again continuing to go build and make this country great.

But the best way that we can do that is to continue to move power out of this city, out of Washington, back home to individuals and to take less of the dollars that they work hard for here and then figure out how we can give them back in some way that Washington comes up with by some form that they devise in accordance with what their priorities are, as opposed to allowing people who work hard to keep those dollars at home and to spend them in the very best way that they see fit and to meet the needs of their families and communities and to become more actively involved in their communities and churches and private organizations out there that are really getting the job done and in which I think can unleash a tremendous work in this country toward addressing those very real needs, the needs again to win the war on drugs, to lessen the crime that goes on across America and to restore values to our families to our workplace.

If parents had more time to stay at home, to spend with their children, we would have a lot less of the problems that we are facing out there. Frankly, one of the reasons they cannot do that is because we ask them to work 2 and 3 jobs to pay for the cost of government so that we can decide for them what is in their best interest. And clearly, I think that is something that when it comes to again people who work hard in this country, it is just a matter of a statement of values. We want to work systematically toward the end of moving power back toward home and allowing them to have more input in the things that affect their lives.

So, again, when it comes to the whole area of political participation, I think the value, the philosophy that my colleague's legislation brings is consistent with that overall philosophy which we all share.

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, my colleague has hit on two key themes that really separate us from our friends and opponents on a partisan level on the other side of the aisle, the Democrat Party; and those two themes are that, one, when it comes to the power and the importance of individuals, we consistently try to side on the Republican side with individuals. That is a clear distinction in how we organize ourselves as a society and how we believe political authority ought to be placed, the overall question of whether authority ought to reside in Washington, D.C., or in every single house, in every single city, in every single community and with individuals back home.

And that value we see played out on this floor every single day, whether it is tax policy. And the debate frequently is leaders of the Democrat

Party have come to the floor and said that the fact of the matter is very simple that they do not support tax cuts, period, stated as emphatically as it possibly can be.

And that is fine. That is a fine position to represent and to have if they happen to go in for that sort of thing and believe that. But we, on the other hand, happen to believe that taxes ought to be lower, that more authority, in this case wealth, should be in the hands of individuals that earn it.

The second value that my colleague mentioned or touched on deals with families, that we acknowledge the power and importance of families and recognize families as the most central and essential social unit in America. And we see that being played out every single day, a huge difference of opinion that we have where we believe families ought to be strong and be empowered wherever we can and that responsibility ought to reside with families, rather than, as our friends on the other side of the aisle again, the Democrats, tend to have a record that would suggest that our government does a better job of organizing our communities and our schools and our neighborhoods and so on. A huge difference of opinion.

And this issue of campaign finance is no different. It is just one other issue that comes up where the differences between our values on individuals is exposed. Those who will oppose paycheck protection clearly believe that it is fine for somebody else to take cash out our paycheck and spend it on the political cause of their choice.

□ 2100

Versus us who believe that every individual ought to voluntarily agree whether they want to participate in a political activity or not.

When it comes to families as well, I fundamentally believe that the Paycheck Protection Act is essentially a pay raise without a tax increase. It gives folks more disposable income, more wealth in their own hands, the hands of the people who earn it.

They can decide whether they want to spend it on politics, or maybe they want it put toward their pension fund, or maybe they want to buy new shoes for their kids, or maybe they want to put it aside and invest in some things at home to make their lives a little bit more comfortable and more convenient. A huge distinction in values, where we stand as a country. Again, we are going to see where this Congress stands later this week as we deal with the whole issue of the Paycheck Protection Act.

Let me also state that the political stakes on this are very high. The two political parties have very divergent opinions on this.

I am going to read from a report called Inside The New Congress. It is a report that is published every Friday by Inside Washington Publishers, is the name of their organization. The managing editor is John Brushnehand. He reported just a few months ago, the headline says ''House Democrats may retaliate against Members who support the Paycheck Protection Act.''

The article goes on, it says ''Some high-ranking Democrat law makers suggested retaliating against any party members who vote in favor of legislation placing new limits on union political activities, say Hill sources.'' It says ''The suggested retaliation would be to cut off Democrats from financial support from the Democrat Congressional Campaign Committee this election cycle.'' It says ''While few Democrats are thought to be in favor of the legislation known as the Paycheck Protection Act, some conservative Democrats could face trouble in November if their GOP opponents are able to attack them on the issue, say the sources.'' It says the issue was raised during a meeting of the House Democrat leadership held this week, and this issue was published at the end of February of this year, so this meeting was held, presumably, at the end of February ''with AFL/CIO president John Sweeney, say several sources who attended the gathering. A representative from Wisconsin, among others, recommended during the meeting that Democrats who vote in favor of the legislation should not be backed by the Democrat Congressional Campaign Committee. Democratic sources say they did not get much further than the talking stage on the issue during the meeting.'' The issue basically goes on.

This is a live-or-die issue for Democrat operatives here in the Congress. They have formed a very close coalition with a small number of union bosses predicated on the notion that they are going to be able to continue taking cash out of wage earners' paychecks and diverting it toward their political activities without the concept of wage earners.

The Paycheck Protection Act, while I agree it may threaten the flow of cash to Democrat coffers, is still a matter of fairness that, even when we voted on this floor, a handful of courageous Democrats were willing to join with the majority of us Republicans in voting for it. We just needed a few more of them in order to put it over the top and to score a real victory for hard-working Americans that day. We are going to get a chance to do that again.

The debate is not limited to Congress. The State of California has this very question on their ballot which will come up in June. The State of Nevada has put this on their ballot which will come up in November.

The State of Colorado, my home State, is leading an effort, and I am chairman of that effort to try to get this issue on the ballot. The State of Oregon is moving forward.

Several State legislatures are referring a similar measure to the ballots within their States. Across this country, Americans will have an opportunity to participate in a fundamental question on campaign finance reform of whether individuals will be guaranteed the right to participate in the political process on voluntary terms and have their paychecks protected from those who believe they have some kind of right, some kind of clear path of access to the hard-earned wages of somebody who works hard to make ends meet.

Mr. THUNE. Mr. Speaker, if the gentleman would yield, and really it does come down, when I listened to the debate when this debate was held on the floor previously, and I listened to the other side get up and talk, they did not address this issue because they cannot. There is no answer to this. This is a very, very simple issue. We cannot get any simpler.

This is a question of whether or not political participation ought to be mandatory; in other words, we ought to be required to take something out of our paycheck and give it to a political cause even if we do not agree with it, versus whether it ought to be optional. It is that simple.

This concept cannot get lost in the complexity, although it has been tried. They tried to disguise and delude and distract and divert and everything possible during the course of the last debate. But the fact of the matter is that on its surface this is a very simple issue.

People who work hard, who join unions, can still contribute to political processes. There is nothing to deprive them or prevent them from doing that. All this simply says is it has got to be optional. All we have to do if we want to do it is we have that option every year. I think, again, that is consistent with the way the political process ought to operate.

It states as a matter of value and I think a political, again, principle that has been held dearly by this country for so many years, and that is that anybody who participates in this process ought to be able to do it on a voluntary basis.

To the extent, again, that we can bring that back in this country, the legislation takes us in that direction. I certainly hope as we have this debate that there will be those who will step forward and demonstrate the courage and the boldness to go against the tide, no matter what the forces and the special interests might be saying, and do the right thing; and that is, again, give people who work hard for a paycheck in this country the opportunity to participate voluntarily.

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I see that our time is about to expire, and I appreciate the Speaker for recognizing the freshman class tonight. We will be back one week from tonight with another special order.

COMMONSENSE MANDATE FOR ACTION ON EDUCATION BEING IGNORED

The SPEAKER pro tempore (Mr. LUCAS of Oklahoma). Under the Speaker's announced policy of January 7, 1997, the gentleman from New York (Mr. OWENS) is recognized for 60 minutes.

Mr. OWENS. Mr. Speaker, I want to talk about the fact that the commonsense mandate for action on education is being ignored here in Washington. We have an attempt to divert the attention of the American people from what is one of our most important issues.

In discussing this very important issue of education and the fact that there is an attempt to make us forget how important it is and forget that there is nothing but inaction being proposed about it here in Washington, I think we ought to discuss a few seemingly unrelated issues.

The fact that India has just exploded a nuclear device is important to today's topic. The fact that the CIA failed to detect the test preparation is important. The fact that the Senate passed today something called the American Competitiveness Act, which calls for making America competitive by bringing in foreigners, foreign professionals in the information technology industry.

The American Competitiveness Act is an example of outrageous language being used here in Washington, ridiculous language. It is called the American Competitiveness Act, and yet at the heart of the act is the provision which requires an increase in the quotas for visas for information technology professionals from foreign countries, so they can come in and meet our needs in this critical area of information technology workers.

American Competitiveness Act for that kind of piece of legislation is about as ridiculous as the Paycheck Protection Act which my colleagues were talking about before.

The Paycheck Protection Act is an act whereby they are going to try to censor unions in this country. Unions represent maybe 15 to 16 million people. They should be censored in terms of their voice in the political arena. Yet, the people who give the most money to the political process, corporations, millions of Americans have their stock in corporations, there is nothing in the legislation, no discussion at all about how corporate stockholders, people who own shares in corporations should be able to also have protection.

I do not think protection is warranted in either case. It is an attempt to curb the debate and silence one segment of the American electorate.

But how does this relate to education? Let us go back to India. India exploded a nuclear device. The CIA failed to detect a test. We had a discussion just a few days ago on the floor of this House about the CIA's budget. We are not sure what it is, because it is secret, but we have a good idea. We proposed to cut the CIA budget by 5 percent. We have begun to compromise. In previous years we have asked for 10 percent, but this year we went down to 5 percent.

We calculated a 5 percent cut would be about $1.3 billion. We calculated that with $1.3 billion we can build a junior high school or high school which costs about $10 million to build. They may cost a little more in New York, but most parts of the country, you can build a substantial school. For $10 million, we calculated 130 schools.

We are talking about cutting the waste out of the CIA budget in order to build schools. So there was a link we made to education. But we had an overwhelming vote against our amendment to cut the CIA in order to use the money for better purposes.

I agree with the gentlemen over here before. The gentlemen were talking about the bigness of American government. The government spends too much money. The taxes are too high. The taxes are certainly much too high for people at the lower end of the scale, and we should move to try to cut taxes.

You cannot cut taxes if you are going to continue to insist that the CIA operate at a budget between $27 billion and $30 billion. But the CIA had to be funded at the same level because the people on the floor who were members of the Permanent Select Committee on Intelligence said they need this money, and one of the reasons they need this money is because they must fight nuclear proliferation.

As the last superpower in the world, we are the only power that has the capability of detecting nuclear tests or preparation for nuclear tests. We can monitor nuclear tests throughout the world.

One of the great dangers throughout this world is nuclear proliferation. I agree, nuclear proliferation is one of the great dangers of this world. It is an international matter. It is of international concern. I am proud of the fact that the CIA says they have the capability to monitor nuclear proliferation. That is one of their major priorities, one of the highest priorities.

If that is the highest priority, and if the overwhelming majority of the Members of the House voted, as they have in previous years, to maintain the CIA budget at the same level it was during the Cold War, and to do that because of its vital function in detecting nuclear proliferation, why did they fail to detect the test preparation in India?

Why did we hear it on CNN? CNN told the American people that India had exploded a nuclear device, nuclear weapon, whatever; a nuclear explosion had taken place. We got it on CNN. Would it be cheaper to contract part of the function of the CIA to CNN and save that money that we were talking about, $1.3 billion, to build 130 schools?

The explanation of the CIA is that India did not play fair, you know. We are monitoring nuclear activity all over the globe, but India did not play fair. The people in India made preparations, a highly visible amount of activity at another site where they launched rockets. So the CIA thought India was prepared to launch a rocket, so that they focused their cameras, their monitoring, whatever, on that site, and they overlooked the Indian preparation for a nuclear test.

The CIA, which has almost $30 billion for a budget, and part of this money is for the satellites, reconnaissance satellites that we maintain in the sky, why did they miss it? Because the Indians did not play fair. The explanation we get is they did not play fair. They sneaked and exploded their device, prepared while we were looking somewhere else, at another possible explosion.

Why is our sophisticated CIA, absorbing almost $30 billion, unable to play the game that we used to play when we were kids? We played cops and robbers and cowboys and Indians or played war. You take a big rock and throw it over there. The guys looking for you will go over there, while you can come in behind them and attack them. This is the oldest game in the world, a diversionary tactic, the kind the Indians used on the CIA.

Why am I talking about that if I want to alert the American people to the fact that education, one of our highest priorities, is being ignored? Because our money is being wasted in this direction.

There is another linkage, also. India now is proud of the fact that they are reasserting their nuclear power status. The people of India danced in the street to celebrate the nuclear explosion.

□ 2115

Overwhelmingly the party in power has received approval from the people, and some political pundits are estimating that this party will finally consolidate power in India. India has had a lot of turmoil politically, and now this party now in power, because of their nuclear explosion, will consolidate their power and remain in power for a long time. You have another set of demagogues using something like war or something close to war and the preparation for war to unite the nation behind them.

What is the impact going to be across the world? If India is going to show their nuclear muscle, then right next to it is Pakistan. They want to do their test. How can you argue morally that Iran should not go ahead and do their testing and have nuclear weapons? Saddam Hussein is waiting for us to get tired of monitoring his country so he can go back to building his nuclear capacity.

There are many other nations in the world that would like to buy technology and get into the game. So nuclear proliferation, which, by the way, the dangers of it might have nothing to do with war. Maybe they will not start

a war, but the fact that the bombs or devices are exploding means that the radioactive debris is being thrown into the atmosphere, being thrown into the oceans. And if El Nino taught us anything, it taught us that the world is very small, and ocean currents in one part of the world, when they get out of whack, they are affecting other parts of the world. They throw off the weather patterns.

The volcanoes recently have taught us how volcanoes in one part of the world darken the sky for long periods of time, as if we did not know it from studies of ancient catastrophes, in the last four or five years they have changed the weather patterns.

So nuclear tests, which produce radioactivity, are a concern to all of us. We lived under the threat of a bomb for a long time, that one nuclear power, the Soviet Union, might attack the United States, or vice versa, and we would be thrown into a nuclear holocaust. We did not want that, and it affected the psychology of a whole lot of people of my generation and a lot of people for a long time. We were happy to see that come to an end, the threat of the two great superpowers going to war and what that would do in terms of the devastation of the earth.

Now we are going to have slow poisoning by nuclear proliferation, as one nation after another joins the club. India, the home of Gandhi. If India, the home of Gandhi, passive resistance, the place where Martin Luther King got his inspiration, and numerous other leaders of the world, including Nelson Mandela, if India now is going to beat its chest as a nuclear power and the people of India are going to dance in the streets to celebrate the politicians who have made them a nuclear power, then where can we look to in the world for hope? China will certainly increase their explosions, and on and on it goes.

India is important for another reason. I just mentioned the passage of the American Competitiveness Act by the Senate, that outrageous name they used, ''American Competitiveness Act.''

What is it? It is to increase the quota of foreign workers, professionals in information technology, who can come into the country and get us out of a jam because we have inadequate education. Our educational system has not produced enough information technology workers. We now have a crisis. So American competitiveness is all tied up with foreign professionals who are coming in.

By the way, as they increase the quotas for foreign professionals to come in, they are going to decrease the quota in other areas, so people who are waiting for their families, to reunite families, and other areas of immigration are going to be hurt.

But this great act of improving American competitiveness is going to benefit India primarily. The largest number of information technology workers now in this country from a foreign country are from India, and the largest number who will come in under this new increase in the number who can come in, I think 30,000, the quota is being increased by 30,000, and over the next few years it will be brought down back to 20,000, but for a long period of time you can have 20,000 per year. To jump it off you are going to have 30,000 more than already. Most of them come from India, and it is likely that, in the future, that same ratio is going to be there.

India is the place which has seen fit, wisely so, to educate a large segment of their population for the age of computers. Computer science, all of the things related to computers and information technology, India has seen fit, they saw the need, and they have a large body of human capital to spread throughout the world, certainly the English-speaking world.

Indians speak English, and that gives them an edge over the information technology professionals that might come from the former Soviet Union or from other parts of central Europe. They speak English. We need English-speaking professionals in the information technology sector. So India will send to America more and more information technology workers.

Do you discern a circle here? They will be in our top industries. They will acquire more know-how. They will be able to take that know-how back to India. If India's nuclear capability is rather primitive now in comparison to the United States's nuclear capability or the Soviet Union's nuclear capability, then certainly when we get through importing Indian information technology workers, high-tech workers, when we finish with that process, then we will have trained all that they need.

So the Indian government now in power, which wants to stay in power as a major militaristic nuclear power and is going to consolidate its hold on the government, is following a pattern not too dissimilar from the pattern of Saddam Hussein. Saddam Hussein made a dramatic attempt, in a very short period of time, to acquire the most modern kinds of weapons available, and now India is staking its future politically on being able to say it is a great military power. And we are going to help train them. We are going to call the training process the American Competitiveness Act, that was passed by the Senate today, and they expect it to pass the House of Representatives also.

Why not, instead of importing workers for information technology, why not train them here in this country? Why not improve our own school system here in this country so that we are able to first allow young people coming out of our schools to be able to get very good jobs, that are also beneficial for the overall American economy, and also beneficial for any national security items that we are concerned with? Why not do that instead?

The common sense mandate for action on education is being ignored. The American people think it makes a lot of sense to have more attention paid to our education system. The American people repeatedly show in the polls, in the focus groups, that they are concerned about education.

Why are the leaders of the Republican majority, who are in control of the Congress, why are they ignoring the mandate of the people? Why are they failing to honor the results of the polls? They read the same polls that the Democrats read. Republicans and Democrats both know that education is very high on the agenda of the American people. Why are we ignoring it?

Why are we turning away from a great window of opportunity at this point in history? Not only are the American people concerned about education and clearly show this is a popular concern, but we now have the resources, we now have the revenue, to address some of these critical problems in education.

Why do we not address the problem of school construction that the President has proposed we address? He proposed a very meager program, $22 billion, but it is not going to come from the Treasury. All of it, in fact, the $22 billion construction program, is a program where the private sector would provide the money and the government would provide tax credits to compensate the private sector for the interest.

So it is not a great amount of money that is going to be taken out of the Treasury immediately; it is over a long period of time, paying back the interest as the local education groups, agencies and the States borrow from this pool, where they pay no interest. They get the money with no interest. The interest will be paid through a tax credit vehicle.

Very clever, Mr. President. I would like to see more money directly appropriated for education, so the whole question of borrowing by the local school districts and the states will not have to be an obstacle to action. But in this atmosphere, we will take your $22 billion borrowing program. The Republican majority says no; they refuse to consider it. They turned away from this window of opportunity.

We could go further and not have to borrow the money because we have a surplus. Yes, Mr. Speaker, I want to talk about another secret that nobody wants to discuss here. They do not want to discuss the CIA's failure to detect the Indian nuclear tests. Also they do not want to discuss the fact that we have a budget surplus, more revenue than expenditures anticipated of between $50 and $60 billion in the coming budget year.

No less than $50 billion will be available because it is not needed in the current budget scheme. There will be a surplus, revenue greater than expenditure, of at least $50 billion.

Why can we not at this point address the compelling problems of our schools

with some of that money? Nobody wants to talk about it here. It is amazing how quiet the Members of my party are about it.

The President in his State of the Union address said any surplus should be dedicated, first of all, to Social Security. I agree with the President. He was anticipating a $8 billion surplus at that time. That was what the budget office was telling us, $8 billion.

Whether it is $8 billion or more, I think Social Security should get a high priority. But since you have a window of opportunity to do something about the critical problems of education with some of this money, I would like to offer a concrete proposal to both parties, my party and the Republican majority.

The budget surplus is a golden opportunity. The common sense mandate for use of this surplus should be one-fourth for Social Security, one-fourth for our Social Security contingency fund. That is what I think the President and other leaders have in mind. Social Security does not need any help for a long time to come. We are talking about 20 to 30 years before the calculations show that Social Security may be in trouble.

Well, let us start getting ready for the trouble. Let us set aside a contingency fund, or whatever else they have in mind, to guarantee that Social Security never has a problem. Let us take one-fourth of the surplus for Social Security.

Let us take one-fourth of the surplus for a tax cut for families earning less than $30,000. You want a tax cut? Give the tax cut where it is needed most. Families earning less than $30,000 should be given priority. If you are going to give tax cuts to others, start at $30,000 and come on up.

I think we would all agree that the American people deserve some type of tax cut. You could even have a tax cut without the surplus, because most of our income taxes come from what you call earned income, the earned income of families that are working families.

We have a whole pot of money that is not taxed very much, and that is the unearned income. These are not my terms. ''Earned income,'' ''unearned income'' were invented many years ago. It is not a socialist term or the term of a New York liberal. It is a general economic term.

Earned income is what you receive as a result of working for wages, what you get in a paycheck and what you get as a consultant fee. I even think that the millions of dollars that a boxer earned in the ring is earned income. The millions of dollars that the sports figures on the football, baseball or basketball field earn, that is earned income. They sweat for it. I guess it goes back to the Bible and the mandate that we earn our living by the sweat of our brow. That is a certain category of money.

Unearned income, and I think the term originally had some kind of undesirable feature, unearned income is what people get through investments and various other machinations that produce money. Not machinations, various other devices that produce money without them working for it on a daily basis, a weekly basis, out there on the ball field, et cetera.

So unearned income on investments, primarily the money earned on the stock market is the best example of unearned income, the stock market, bonds, it is well-known where unearned income comes from.

If you start looking closely at unearned income, you will find only a tiny portion of unearned income is taxed. Most of it escapes taxes. So if you really want to look for a place to give a tax cut to families earning $50,000 or less, $30,000, then increase the amount of taxes on the unearned income and greatly decrease the amount on the earned income.

But I am not here to discuss that tonight. I just want to make the point we could have a tax cut. We could satisfy the top agenda items of both parties. Social Security, a tax cut, one-fourth to Social Security, one-fourth for a tax cut, and the final two-fourths, there are four fourths, you know, the final two-fourths for education initiatives, such as the construction initiative of the President, such as smaller class sizes than that have been proposed by the President, such as the reading initiative proposed by the President, such as an increase for increasing funds for technology in the schools, wiring the schools.

□ 2130

School construction is vital. There is a lot of discussion about improving education and the Republicans are locked in on their own approach with vouchers, and other people talk about phonics versus other methods of teaching reading. The Committee on Appropriations passed a bill that called for the whole school approach a couple of years ago, and there are a lot of approaches, initiatives, innovations, and most of them might have merit, but at the heart of providing an education for young people should be the provision of a safe place to sit and study, a safe place for the teacher and student to get together, a safe place for students to look forward to when they leave home in the morning, and certainly in the poorest areas, the school ought to be a great improvement over the home environment of the poorest youngsters.

We should not go to school and find we are crowded into rooms unreasonably. We should not have 45, 50 children in one room. We should not have to go to school and find that there are no rooms for some classes, and classes have to be conducted in the hallway or in the portion of the bathroom, the restroom. We should not go to school and find ourselves being put in a situation where one has to eat lunch at 10 o'clock in the morning.

There are a large number of schools in New York City where the students have to eat lunch at 10 o'clock in the morning because the lunch room was not built to accommodate the large numbers of children in that school, a school built for 500 has 1,000 pupils. The lunch room can only accommodate a certain number, so they have to go in shifts, and in order to get them all in, the shift process has to start at 10 o'clock in the morning. That is child abuse, to make a child eat lunch at 10 o'clock in the morning. I think that should directly affect the physiology and the health of a child. They had breakfast at home or at school and they have to eat their lunch at 10 o'clock in the morning. I think the children on the other end, if we have to spread that over cycles, so that the last group is eating at 1:30 or 2 o'clock, they are being abused. They are hungry, starving by the time they get to 1:30 or 2 o'clock.

We are doing these kinds of things, we are sending children to schools that have asbestos problems, we are sending children to schools that have lead pipe problems, we are sending children to schools that are 100 years old in New York, we are sending children to schools that have leaky roofs, we are sending children to schools in New York and other places that have coal-burning furnaces, coal-burning furnaces, still. Mr. Speaker, if a school has a coal-burning furnace, it is probably a very old school.

I brought this subject up with the head of the Environmental Protection Agency here in Washington and she was appalled that there are still coal-burning furnaces in schools. Well, we only have about 285 coal-burning schools in New York, out of the 1,100 about 285 are still burning coal in furnaces, which means that the lungs of the children are directly affected, because if one has ever been in a place that is burning coal, when I first bought my first house it had a coal burning furnace, I had to go down and stoke up the fire, we put in all kinds of filters to keep the thing clean, filters at the furnace level and filters at the level of the register, but the coal dust gets through anyhow.

If a child sits in a school all year long during the winter season while the furnace is burning coal, they are going to get coal dust in their lungs. If a child has to spend 6 years in school from the 1st grade to the 6th grade, or the 6th grade to the 12th grade, they are going to get plenty of coal dust in their lungs and they are going to have difficulties with health later on that nobody is going to quite understand. The child does not smoke, but the coal dust is going to be there creating a problem.

We have concrete evidence of what is happening right now, because the high asthma rate in New York City is unparalleled to other big cities who have problems I am sure with coal burning schools also.

The other pollution in the air now, as it grows greater, the coal-burning furnaces and that kind of pollution has an

even greater affect, concentrated at places where children are gathered. So construction, if we do not do anything about a safe place to study, if we do not get rid of dangerous situations, then do not talk about the phonics method versus some other method of teaching reading. Do not think that we are going to solve the problem if we come in with a mandate that there will be no more social promotion if we mandate testing nationally or locally.

The problem will not be solved with these kinds of actions, although some of them may be highly desirable. First, we have to make a commitment to have every child in America in a safe place to study, a place conducive to study, and then we have to move to a place which is enhanced with technology, with equipment for a science lab, with books that are not 30, 40 years old. These basic needs are still not being met.

Now, in 1996, 1994 to 1996, the Republican majority argued that if we have the government take some initiatives to help education in some meaningful way, then we are going to bankrupt the country or we are going to put our grandchildren and our great grandchildren into debt. They made it appear that any actions by the Department of Education were an immediate threat to the economy of the United States.

Mr. Speaker, with a $50 billion surplus, we cannot tell that lie anymore. With a $50 billion surplus, we cannot say that money is the problem. With a $50 billion surplus, the question is, why do we not want all the children of America to have a decent place to study, a decent place to have teachers teach them? Why do we not want all the children of America to have the opportunity to learn? We may talk about increasing the testing, but that is putting the burden on the backs of the students. We may talk about standardized curriculums and more challenging curriculums, but again, that is putting the burden on the students, and those are challenges that students ought to meet.

They ought to meet the more challenging curriculum standards and they ought to be able to pass the tests. I am not against national testing forever. Somewhere down the line I would support national testing if we first deal with opportunity to learn standards. If we first say to every State and every local school board, every child should have these opportunities to learn. First, they should have a facility, a school which is safe, which is conducive to study, which has the necessary equipment and books, which has modern technology which really prepares them for the world they are going to be living in in the 21st century; all of these things are doable. It does not require magic. The money is there. All we need is two-fourths: One-fourth for education initiatives such as smaller class sizes, education for technology, et cetera, and another fourth for school construction. This is assuming we are going to have $50 billion or more.

Mr. Speaker, if it were only $8 billion, as the President anticipated when he made the State of the Union address, then I would say let us give it all to Social Security, but it is far more than $8 billion, so here is a concrete proposal. The mandate for the surplus is to meet the needs as reflected by the polls and the focus groups, and Americans think Social Security is very important, they are worried about it. We have made them worry even more because we have made statements about the need to change things and privatize Social Security and do things which would erode the credibility of Social Security for the future. Let us address one-fourth of whatever the surplus is to Social Security, one-fourth to a tax cut on the earned income of families earning less than $30,000, start with them and go up; one-fourth for education initiatives such as smaller class sizes and education technology, and one-fourth for school construction.

Voters of America, do not let this session of Congress end without some action on education in this direction. There is no reason why we should not have decent schools for all children in America.

For us to have the revenue available, to have the resources and refuse to use them is a savage act. It is savage behavior for the responsible leaders who make decisions about how the resources of this country are going to be used for them to turn away from the needs of these students and children in America who are attending coal-burning schools, 100-year-old schools, schools that are not safe, schools that are not conducive to learning, schools that have no decent science labs, et cetera. It is a savage act.

Jonathan Kozol wrote a book some time ago called Savage Inequalities. It is a book about the inequalities of the school systems in New York City. Savage Inequalities. In the same city, a public school in one part of the city had all of the modern conveniences, decent facilities, et cetera, et cetera. Not too far away, in the same borough, there were schools and in some other cities around the country the schools actually had to be closed down because when it rained. East Saint Louis was one of the examples he gave. When it rained, they literally had the rain pouring into the schools, a flood of rain pouring into the schools, and these kinds of conditions still exists, not only in rural schools and in inner city schools, but there are some suburban schools that are grossly in need of improvement and repair, and in some cases, they need to build new ones.

It would be savage for the American power structure, Members of Congress, the executive branch, the private sector leaders, to allow this to continue at a time when we have the revenue, we have the resources. Instead of looking at the obvious needs for more school construction and more resources for smaller class sizes, the Republican majority is locked into an irrational, illogical, dogmatic policy related to vouchers and privatization. They are dogmatic about it. It is like a superstition that one cannot touch. They refuse to deal with reality. They are swimming against public opinion. They are swimming against the tide of public opinion in their own district.

I have often approached my Republican colleagues on the Committee on Education and the Workforce and said, look, you are advocating vouchers as the only solution to the improvement of the American public schools. You want to make the public schools not public anymore; you want to make the people of America not focus their attention on improving their public schools, but you want to use vouchers and take them somewhere else. Why do you not propose that for your district? And I make the challenge here. Every Republican who proposes vouchers, why do you not propose that in your district where you run for office? Why do you not push vouchers there?

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What I have learned is that in the majority of the districts represented by the members of the Committee on Education and the Workforce, their constituents have said to them, we are not interested in vouchers. We were not interested in vouchers. We have good public schools, or we have schools that need improvement, and we are willing to work to improve our public schools.

Some of them confess to me, I have good schools in my district, they say. I do not need vouchers. My answer to that, my response to that, is if you have good schools and you do not need vouchers, then let me have good schools in my district. Let us have good schools everywhere so nobody will need vouchers. Let us take the steps necessary to create opportunities to learn for all children everywhere. Let us improve the public schools and stop the voucher dogma.

I think the Republican majority suffers from something similar to what Lysenko pushed in the Soviet Union. Lysenko was a biologist who insisted that the environment is almost totally the determining factor of what happens to living organisms. Lysenko was a geneticist, an agronomist from the Ukraine. He developed a doctrine compounded of Darwinism and the work of Michurin, that heredity can be changed by good husbandry.

As director of the Institute of Genetics of the Soviet Academy of Sciences, he declared the accepted Mendelian theory was erroneous, and he ruthlessly silenced any Soviet geneticist who opposed him. He endured on the Soviet science scene and was a major dictator of science theory until Nikita Krushchev came to power in 1965.

In the whole Stalinist era, they wrecked the agriculture of the Soviet Union by insisting that Lysenko was right and everybody had to follow

Lysenko. The rest of the world's scientists were giving due consideration to heredity as a factor in the way living organisms developed so they could improve the plants and the animal stocks. And agriculture prospered, of course, in this country, because science was free and they followed where science went. But Lysenko said no, and they had scientists who were put in jail for challenging Lysenko.

The Republican Party is suffering from Lysenkoism when it comes to the public schools. When it comes to improving schools in America, they will not look to the right or to the left. They insist vouchers and privatization are the only answer.

They have forced vouchers down the throats of the citizens of the District of Columbia. People here in Washington, in the District of Columbia, they took a vote. They had a referendum on the question of whether they wanted vouchers or not. They overwhelmingly voted no, they did not want vouchers. They were willing to entertain another experiment to make the public schools more competitive and to get some innovation into the bureaucratic structure.

They wanted to challenge the structure by having charter schools, some public schools that would be run by a group of individuals who would make policy for the school and determine how the school is run, in accordance with certain principles and standards that the District of Columbia sets.

That is a movement that is in effect across the country in at least 25 States. New York does not have it yet, but charter schools were accepted by the people of Washington as a way to experiment and to encourage improvement of our public schools.

Ninety-five percent of the children of America will go to public schools in the next 10 years. No matter what is done, even if you had an implementation of the voucher program on a large scale, you could not do it in the next 10 to 20 years to any great degree, so 90 to 95 percent of our children are going to go to public schools. Let us improve the public schools.

My colleague in the Congress who now has retired, Floyd Flake, is an advocate for vouchers all over the country. He will tell us that polls show that large numbers of African American parents favor vouchers. Why do they favor vouchers? Because they are fed up, overwhelmed, they do not think they can improve public schools, and they are the ones who say, I will take anything, I will try anything.

Let us lay aside my problem with vouchers and say, okay, what if you decided to implement vouchers tomorrow in Floyd Flake's school district? Congressman Flake is a minister, has a big cathedral, does a very good job of taking care of his parishioners. They have a school. The school already has a long waiting list.

If we give him vouchers, if we give students in that area vouchers and say, go to Congressman Flake, go to his school, he cannot take any more. Or suppose we give him the authority to expand outside of his school, all the vouchers you need. You have a system that the parents believe in. Whatever you are doing is working. Go to it. What would happen? Pastor Flake would have to create a bureaucracy. He would have to set up a personnel system. He would have to set up a custodian system. He would have to do all the things that a local education agency does. He would run into the same problems. He would have to recruit large numbers of teachers. He could not personally interview them all. He could not get the same quality that he gets in his church school.

There are a number of problems that have to be solved by public policy action, and if we turn the system over to the private sector, to the church, whoever, they are going to have the same problems. What they do now is skim across the top and get the best students, in many cases, but certainly a select number of students. That cannot solve the problem.

I have said these things many times here. I hate to go on and on. But I think it would be savage for this Congress to go on doing the outrageous kinds of things we have been doing. We have just passed a bill where we are going to make America competitive by going outside. Instead of developing the brain power here, we want to go outside.

It is not just the public schools, but we are attacking our own higher education institutions. We passed the Higher Education Assistance Act 2 weeks ago, and it had no new initiatives in it to deal with the problem that America needs more and more people who are college-educated. Instead, we are playing with affirmative action, trying to destroy diversity in the universities. For some kind of irrational reasons, we are attacking the higher education system to make it smaller instead of larger.

In New York City, they are not attacking affirmative action, they do not use the term ''affirmative action,'' but there is a broad-scale attack on the country's oldest public university, City University of New York. It is the oldest public university, and there is a sustained attack to try to downsize and gut that institution. That is what the board of trustees is being forced to do right now. Massive political intervention has taken place, and people on the board of trustees are carrying out orders from above. In the interests of saving money, they say, they want to greatly downsize the City University of New York.

How are they going to do it? Set new standards for all the senior colleges. You cannot get in if you need remediation. You can get into Yale, Harvard, and a few other colleges across the country if you need some remediation. Remediation, 80 percent of the schools in the United States have some form of remediation, because by now we know in this world that people do not come packaged perfectly. They do not have an excellent student in science and math, an excellent student in verbal reasoning, an excellent student in languages. Lots of students have some deficiencies, or they cannot excel in all three of those. That is recognized.

In this kind of high-tech economy, we do not want to cut off our nose to spite our face. Why get rid of talented people because they have one thing missing? We need the creativity of students, no matter what their forte may be, no matter how strong they are in one area versus another, if they are creative. What makes the American economy go, what makes the high-tech industry go, is creativity.

Bill Gates and his fellow entrepreneurs were not people who would pass all the tests for assessment as they went into college. They were not people who necessarily would score highest on the highest tests. They were people who had imagination, and the Bill Gates of today is not using his math and science skills to build one of the world's largest businesses, or probably the largest, most profitable business in the world. He is now not using algebra, trigonometry, calculus, differential equations. That has nothing to do with his ability to maneuver this system, to organize large numbers of people and focus them on various tasks, that has now led to him being accused of monopolizing and threatening certain segments of the economy.

These are creative people from many walks of life. That is what makes America go. We do not score as high across the world on a lot of these tests that are given. I think we should not take that lightly. Our students should score higher on math and science, and they should compete with other students throughout the rest of the world, but what they cannot measure is creativity, creativity. Our students are probably the most creative in the world. That is how our economy, with its flexibility, is able to keep growing when other economies are having great difficulty.

So City College, City University of New York, the trustees are also going to be guilty of savage behavior. It will be a savage policy to shut out large numbers of students by saying that they cannot enter any one of the senior colleges if they need remediation.

They have gone further to say the 2-year colleges, you can only have remediation for a little while, or the proposal is being pushed by the mayor that says the colleges should not have remediation programs at all. There should be institutes that provide remediation. They should be summer institutes. You have a young person who comes out of high school who may be creative, have talent, which is what the City University has shown.

Eighty percent of the students do graduate. A large number have deficiencies when they come in as freshmen, but the new atmosphere of the

college campus is a new beginning for the student. Their latent talents, creativity, energy, is changed by being there on a college campus.

If you say to the student when he comes out of high school, you cannot get into college, you cannot set foot on the campus until you spend the summer in an institute to make certain that you pass the assessment tests in math, writing, languages, whatever, reading, you will turn off large numbers.

The California policy of anti-affirmative action, anti-diversity, has cut away large numbers of minority students, Hispanic and African American students. City University will chop off the head of opportunity for even more with this remediation policy.

I spoke to the Board of Trustees of City University on April 20. I am a Congressman. I have been on the Committee on Education and the Work Force for 16 years. I thought they might give me a little more than 3 minutes, especially since I chided them for not bothering to come to Washington all during the time when we were considering the Higher Education Assistance Act.

In previous years, and we consider the Higher Education Assistance Act every 5 years, in the previous 2 times we have reauthorized the Act, we have had representatives from the City University of New York, the State University of New York. New York was very much absent this time in the consideration of the most important piece of higher education legislation. They were not there.

I chided them for not coming to us, but here I was in front of them. I hoped they would give me more than 3 minutes, but they did not. I think the chairman did give me an extra minute, so I had 4 minutes to speak. The bureaucratic secretary sat there and nearly had a heart attack because the chairman was allowing the Congressman who sits on the Education Committee in Washington to speak for 1 more minute. Just one more piece of ridiculous behavior.

At any rate, I am going to read some portions of the statement, because I want to sum up tonight my concern that the commonsense mandate for action on education is being ignored here in Washington, education at every level. We are ignoring education at the elementary and secondary level. We are not providing the kind of national assistance.

This garbage about local control is garbage. With local control, we were almost unprepared to fight World War II. Local control meant no programs for health for the masses of the population. We had unhealthy, emaciated bodies reporting to the draft. Local control is probably some of the worst government in the country at the local level. I hear the majority keep glorifying local control, State control. Some of the greatest amount of corruption, ineptness, and mismanagement is at the local level in our government and at the State level.

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So there is no magic here. Local control of education has led us to where we are now. We are in trouble.

The Federal Government is only responsible for about 8 percent, between 7 and 8 percent of the budget for education in this country. With all the money spent on education, the Federal Government is responsible for only 7 or 8 percent. Most of that goes to higher education so a very tiny amount of the Federal budget goes to elementary and secondary education.

We have very little voice. They keep saying that mandates from the Federal Government do this. It really is a very small amount of policy interference that takes place as a result of requiring local governments to meet certain conditions in order to receive Federal money. This is all garbage. If we gave the schools of America, the local education agencies in the States 25 percent of the funding instead of 8 percent, we could only have 25 percent of the controls still. I mean, we could increase the amount of resources from the Federal Government from 8 to 25 percent and still the local governments and the States would have 75 percent control, 75 percent of the responsibility for funding, 75 percent of the control.

We ought to move toward the goal of 25 percent Federal funding for our education system. Education is the primary ingredient and component of national security. The greatness of the Nation, the economy of the Nation, it all is dependent on an educated populace. It all falls back on this American competitiveness. To have our competitiveness now linked to foreign professionals coming in to take care of our needs is ridiculous. We are going in just the wrong direction. We are making some stupid decisions and certainly making some savage decisions.

In the case of City University, instead of exploring the vulnerabilities of City University, the board of trustees and all the leaders of the city should be approaching the weaknesses creatively and try to transform the shortcomings of City University into opportunities. All over the world, the education of masses of youth emerging from educationally-deprived backgrounds is a vital challenge to the process of building a new global society with abundant supplies of indigenous leadership.

Mr. Speaker, I will submit my entire statement of testimony to the board of trustees of the City University of New York on April 30, 1998. I want the entire statement to be included in the RECORD so that those who did not have a chance to hear it will be able to read it.

I want to conclude by saying that City University is the oldest public university in the country. The bulk of the students, great majority of the students, now more than ever, 80 to 90 percent come out of the public schools of New York City. So the public schools of New York City, for all that they have had to go through all these many years, have produced products that were able to go through the higher education process and emerge.

There are numerous Nobel Prize winners that have come out of City University. Some people say, well, that was a long time ago. No. There are people who graduated very recently who also are Nobel Prize winners. Nobel Prizes for medicine, Nobel Prizes for physics, Nobel Prizes for economics, Nobel Prizes for a whole range of items that have come out of City University. Their graduates are teaching and have higher positions in universities all across the country. They have been sort of missionaries to the higher education community throughout the whole country.

Why now are leaders without vision attempting to wipe out the effective City University? Two hundred thousand students go to City University on a regular basis and more than 100,000 go in the evening. It is a massive educational undertaking. It would be savage, stupid and savage to destroy that institution.

It would be stupid and savage for the Congress of the United States to ignore education this year, not to fund a construction initiative, not to fund an initiative which would bring down class sizes, not to fund an initiative which would meet the information technology needs of this country with students in this country, with workers that come from the families in this country.

Why go outside to India or any other place to bring in information technology workers and say that they are necessary to save America? Why define American competitiveness by the use of foreign brainpower? Why not develop our own brainpower? Why continue down this absurd road of Lysenkoism, of superstition, of dogma which says that only vouchers and only privatization is important and ignore the fact that the President has put before us a sensible agenda, $22 billion program for school construction, a program to lower class sizes, a program to increase reading readiness, a program to improve schools by increasing the amount of funds available for technology in the schools?

All of this is relevant, and it all relates to where we are in the world today. Our national security and our economy is directly dependent on our education system. The American people know this. Common sense tells them this. That is why education is a high priority. We should not let this session end without responding to the common sense mandate for action on education.

Mr. Speaker, I include for the RECORD the testimony to which I referred:

TESTIMONY TO BE PRESENTED TO THE BOARD OF TRUSTEES OF THE CITY UNIVERSITY OF NEW YORK BY CONGRESSMAN MAJOR OWENS, APRIL 20, 1998

Instead of exploiting the vulnerabilities of CUNY, we should approach the weaknesses

creatively and we must transform shortcomings into opportunities.

All over the world the education of masses of youth emerging from educationally deprived backgrounds is a vital challenge to the process of building a new global society with abundant supplies of indigenous leadership. If we meet this challenge of educating those who arrive in our college classrooms with inadequate preparation here in New York, in CUNY; if we can take freshmen from impoverished backgrounds with enormous skills deficits but who have normal brains and great potential; if we can take this kind of raw material and create productive and independent citizens able to take care of themselves and also serve as leaders; if we can seize the situation which presently confronts us; then we will have a system that produces a priceless global product. Using New York's great and enormously diverse population we will have developed a blueprint, a model for higher education which would be applicable anywhere in the world. The world market for such a service is almost unlimited; it would be a product of the highest value.

What is happening here in New York at CUNY is a tragedy. At a pivotal point in the life of this city, as we approach the dawn of the 21st century, there are confused but powerful forces in this city which are turning a time for triumph into a time for tears.

President Clinton has rightfully referred to America as the indispensable nation. It is not exaggerating to state that in this indispensable nation, New York is the indispensable City. In order for this City to maintain its rightful place and fully realize its destiny an open, thriving, creative CUNY is an indispensable institution. CUNY is the jewel in the crown of our unique urban civilization.

This is the moment at which we must rally our better instincts, our common sense; we must rally our cultivated logic and receptivity to the evidence provided by well-known studies. Such studies show that the record of CUNY is a laudable one. Consider the fact that the cost to educate a single student at Harvard is about $30,000 per year; the cost at taxpayer supported West Point is more than $120,000 per year. Despite its shoestring budgets and repeated fiscal harassments, CUNY has endured over many years, CUNY still stands in the ranks of the greatest in its production of outstanding scholars, scientists and international prize winners.

Oh what a tragedy indeed it would be if the enterprising citizens of New York would stand idly by and allow the destruction of this great monument to the genius of ordinary people. As silent intimidated sheep we can not allow the mutilation of this oldest and most magnificent system for the promotion of maximum educational opportunity for the greatest number. What a tragedy it would be if those with blurred visions and tiny spirits are allowed to oppress this greatest vehicle for insuring progress and economic justice in our city.

Open enrollment is not our enemy. Remediation is not a terrorist tactic. If education is the way out of welfare then why are powerful forces rushing to close the doors of educational opportunity. The trumpet has sounded for leadership from within CUNY. Board of trustees; faculty senates; presidents, and full-time and adjunct faculties; student governments; student bodies; all together you comprise an aggregate more than 215,000 strong. You collectively represent the best educated and most aspiring among us. You have the capacity to utilize an Athenian style democracy not driven by the uninformed and the philistines. CUNY must refined its own mission; CUNY must confront its pockets of internal corruption; CUNY must arouse itself from snugness and complacency; CUNY must accept the continuing challenge that the founders envisioned.

Following the principle that education adds value to each individual, we must seek ways to provide more and better education for all of our citizens. As our society grows more complex higher education becomes not a luxury but an obvious necessity. We should not shrink from the obligation to educate and add value to students at the lowest possible cost. Education at CUNY is still a bargain for our taxpayers; it is far cheaper than incarceration and still cheaper than welfare dependency. New York City alone will need thousands of new teachers over the next 10 years. The nation will need more than a million new Information Technology workers over this same decade. Let's educate and claim our rightful share of these new positions. CUNY enrollments should not be restricted. CUNY enrollments must be expanded.

In closing let me summarize my recommendations as follows.

1. To address the problem of excessive student remediation time and to make reasonable adjustments in admissions procedures, the campus presidents and faculty senates as well as other relevant higher education policy-making entities must be given no less than 6 months to prepare and present a comprehensive plan to the CUNY Board of Trustees.

2. To allow CUNY to appropriately address the problems of remediation and the maintenance of standards of excellence as well as the problems of gross infrastructure inadequacies and student-teacher ratios. The Board of Trustees must unite with the presidents; faculties and students, and the elected officials to present a full assessment of CUNY's needs as compared to similar public institutions in other states. This assessment shall serve as a blueprint for an immediate infusion of federal, state and city capital and operating funds to achieve the overhaul necessary for the building of a greater CUNY.

3. The CUNY Board of Trustees shall assume the responsibility for the issuance of an annual CUNY Report to the Citizens of New York detailing its progress on overcoming weaknesses and its short-term and long-term plans for the future. Open public hearing fully covered by the CUNY Cable Television Channel 75 must be held following the issuance of this annual report.

4. That the CUNY Board of Trustees immediately order that a minimum of two regularly scheduled hours of time be set aside each week on the CUNY Channel 75 for the presentation of a cross-section of viewpoints on the present CUNY restructuring discussions and on CUNY policies in general.

5. That the CUNY Board of Trustees also support the following two initiatives presented in attachments to this statement.

A. An amendment to the Higher Education Assistance Act which proposes the establishment of partnerships between higher education institutions and community based organizations to sponsor store front computer and telecommunications training centers.

B. A proposal for greater CUNY involvement in promoting the immediate and long-term fiscal stability and prosperity of New York City.

CUNY must not allow itself to be invaded and oppressed by barbarians. Outsiders of any kind should not be allowed to stampede CUNY into destructive restructuring. CUNY must be held accountable by citizens and public officials but CUNY should never be invaded; it should never be conquered and it should never be occupied by political and philistine forces.

At CUNY we need scholarly expertise combined with the wisdom of the best and most experienced leadership in this city to correct, redesign, and refine that which exists already. At CUNY we need giant minds and extraordinary spirits to usher and lift a good university to a new level of greatness in the 21st century. New York is the nation's indispensable city. In this indispensable city, the institution that is most clearly indispensable for a prosperous future is CUNY.

FISCAL FUTURE CHALLENGES FOR NEW YORK CITY INSTITUTIONS FOR COLLEGES AND UNIVERSITIES

Economic Development and Revenue.

Each institution should have a tourism promotion program to facilitate bringing in visitors for conferences, conventions, seminars, etc.

Each should forge linkages with ''sister colleges'' throughout the Nation and the world.

Each institution should have one or several in-depth cultural and language institutes and/or collections related to a nationality, ethnic, or religious group. It should declare itself a ''world center'' for that group.

Each institution should be related to the development of some museum or annual exhibition or festival with linkages to some recurring tourism events.

Each institution should organize and support an enhanced sports and game program in recognition of the rapidly expanding dollar value of all aspects of the sports and game industries.

Each institution should develop an organized program for promoting on-campus student entrepreneurs and industries located in the vicinity of the campus which employ students. Industries utilizing faculty knowledge and expertise should share profits with the colleges.

Each institution should have an organized and highly visible volunteer corps available to assist with city emergencies and special projects showing the taxpayers that students are an integral part of the life of the city while enhancing the compassion image of the city.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CRANE (at the request of Mr. ARMEY) for today until 12:30 p.m. on account of illness.

Ms. CARSON (at the request of Mr. GEPHARDT) for today on account of attending a family funeral.

Mr. ANDREWS (at the request of Mr. GEPHARDT) for today before 2:00 p.m. on account of attending a funeral.

Ms. STABENOW (at the request of Mr. GEPHARDT) for today on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of OBEY) to revise and extend their remarks and include extraneous material:)

Mr. EDWARDS, for 5 minutes, today.

Mr. FALEOMAVAEGA, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mr. ABERCROMBIE, for 5 minutes, today.

Mr. COYNE, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.
Mr. PALLONE, for 5 minutes, today.
Ms. JACKSON-LEE of Texas, for 5 minutes, today.
(The following Members (at the request of Mr. MCINNIS) to revise and extend their remarks and include extraneous material:)
Mr. ISTOOK, for 5 minutes, today.
Mr. RIGGS, for 5 minutes, today.
Mr. FOX of Pennsylvania, for 5 minutes, today.
Mr. DREIER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:
(The following Members (at the request of Mr. OBEY) and to include extraneous matter:)
Mr. KIND.
Mr. HAMILTON.
Mr. STOKES.
Mr. SKELTON.
Ms. STABENOW.
Ms. DEGETTE.
Mr. MARKEY.
Mr. BERRY.
Ms. PELOSI.
Mr. EVANS.
Mr. POSHARD.
Mr. COYNE.
Mr. ROEMER.
Mr. MCDERMOTT.
Mr. SCHUMER.
Mr. SHERMAN.
Mr. WAXMAN.
Mr. LANTOS.
Ms.VELAZQUEZ.
Mr. GEJDENSON.
Mr. BENTSEN.
Mr. FARR of California.
Mr. TORRES.
Ms. NORTON.
(The following Members (at the request of Mr. MCINNIS) and to include extraneous matter:)
Mr. SHIMKUS.
Mr. BLILEY.
Mr. RYUN.
Mr. GILMAN.
Mr. ROGAN.
Mr. NETHERCUTT.
Mr. BARRETT of Nebraska.
Mr. RADANOVICH.
Mr. CALLAHAN.
Mr. PORTMAN.
Mr. RILEY.
Mr. FRELINGHUYSEN.
Mr. RIGGS.
(The following Members (at the request of Mr. OWENS) and to include extraneous matter:)
Mr. HOYER.
Mr. RODRIGUEZ.
Mr. SAM JOHNSON of Texas.
Mr. METCALF.
Mr. BALLENGER.
Mr. PACKARD.
Mr. SKEEN.
Mr. KENNEDY of Rhode Island.
Mr. YOUNG of Florida.
Mr. ARMEY.
Mr. CLYBURN.
Mr. LAMPSON.
Ms. ESHOO.
Mrs. TAUSCHER.
Mr. FROST.
Mr. STRICKLAND.
Mr. SNOWBARGER.
Mr. ABERCROMBIE.

ADJOURNMENT

Mr. OWENS. Mr. Speaker, I move that the House do now adjourn.
The motion was agreed to; accordingly (at 10 o'clock and 6 minutes p.m.), the House adjourned until Thursday, May 21, 1998, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

9197. A communication from the President of the United States, transmitting his requests for FY 1999 budget amendments for the Departments of Agriculture, Commerce, Defense, and Transportation; the Environmental Protection Agency; International Assistance Programs; the District of Columbia; and, the Postal Service, pursuant to 31 U.S.C. 1107; (H. Doc. No. 105—255); to the Committee on Appropriations and ordered to be printed.

9198. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–344, ''TANF and TANF-Related Medicare Managed Care Program Temporary Amendment Act of 1998'' received May 19, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9199. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–337, ''Uniform Controlled Substances Amendment Act of 1998'' received May 19, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9200. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–336, ''Parking Meter Fee Moratorium Amendment Act of 1998'' received May 19, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9201. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–330, ''Uniform Interstate Family Support Amendment Act of 1998'' received May 19, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9202. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–329, ''Public Assistance Temporary Amendment Act of 1998'' received May 19, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9203. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–332, ''District of Columbia Unemployment Compensation Federal Conformity Amendment Act of 1998'' received May 19, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9204. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–333, ''Eastern Market Open Air Retailing Temporary Act of 1998'' received May 19, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9205. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–338, ''Georgetown Business Improvement District Temporary Amendment Act of 1998'' received May 19, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9206. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–335, ''Correctional Treatment Facility Temporary Amendment Act of 1998'' received May 19, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9207. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–340, ''Residency Requirement Reinstatement Amendment Act of 1998'' received May 19, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9208. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–342, ''Advisory Neighborhood Commissions Act of 1975 Financial Reporting Amendment Act of 1998'' received May 19, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9209. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–341, ''Definition of Optometry Amendment Act of 1998'' received May 19, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9210. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–343, ''Truth in Sentencing Amendment Act of 1998'' received May 19, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9211. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–328, ''Children's Defense Fund Equitable Real Property Tax Relief Temporary Act of 1998'' received May 19, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9212. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–334, ''Motor Vehicle Excessive Idling Fine Increase Temporary Amendment Act of 1998'' received May 19, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and references to the proper calendar, as follows:

Mr. LINDER: Committee on Rules. House Resolution 442. Resolution providing for the consideration of the joint resolution (H. J. Res. 119) proposing an amendment to the Constitution of the United States to limit campaign spending, and for consideration of the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes (Rept. 105–545). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. ROGERS:

H.R. 3904. A bill to amend the Immigration and Nationality Act to improve the administrative structure for carrying out the immigration laws in accordance with the recommendations of the United States Commission on Immigration Reform; to the Committee on the Judiciary.

By Mr. HYDE:

H.R. 3905. A bill to establish legal standards and procedures for the fair, prompt, inexpensive and efficient resolution of personal injury claims arising out of asbestos exposure, and for other purposes; to the Committee on the Judiciary.

By Mr. BRYANT:

H.R. 3906. A bill to amend title 10, United States Code, to provide that a person sentenced by a court-martial to confinement for life may not be granted parole until the person has been confined for at least 30 years; to the Committee on National Security.

By Mr. BRYANT:

H.R. 3907. A bill to amend the Internal Revenue Code of 1986 to provide for a 95 percent income tax rate on attorneys' fees paid in connection with the settlement (as part of the tobacco settlement agreement dated June 20, 1997) of any action maintained by a State; to the Committee on Ways and Means.

By Mr. BRYANT:

H.R. 3908. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income the dividends paid by tobacco companies which meet youth smoking reduction targets; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CANNON:

H.R. 3909. A bill to make technical corrections and minor adjustments to the boundaries of the Grand Staircase-Escalante National Monument in the State of Utah; to the Committee on Resources.

By Mr. DINGELL (for himself, Mr. KNOLLENBERG, Mr. BONIOR, Mr. UPTON, Mr. KILDEE, Mr. EHLERS, Mr. LEVIN, Ms. KILPATRICK, Mr. CAMP, Mr. CONYERS, Ms. STABENOW, Ms. RIVERS, Mr. STUPAK, and Mr. BARCIA of Michigan):

H.R. 3910. A bill to authorize the Automobile National Heritage Area; to the Committee on Resources.

By Mr. FARR of California (for himself, Mr. GALLEGLY, and Mr. BILBRAY):

H.R. 3911. A bill to designate all unreserved and unappropriated California coastal rocks and islands currently administered by the Bureau of Land Management as a component of the National Wilderness Preservation System; to the Committee on Resources.

By Mr. SAM JOHNSON (for himself and Mr. BONILLA):

H.R. 3912. A bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age; to the Committee on Ways and Means.

By Mr. SAM JOHNSON:

H.R. 3913. A bill to amend the Internal Revenue Code of 1986 to clarify that natural gas gathering lines are 7-year property for purposes of depreciation; to the Committee on Ways and Means.

By Ms. KAPTUR:

H.R. 3914. A bill to amend title XVIII of the Social Security Act to continue Medicare direct graduate medical education payment rates for certain training programs in osteopathy after their operation is assumed by another hospital; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KENNEDY of Rhode Island:

H.R. 3915. A bill to adjust the immigration status of certain Liberian nationals who were provided refuge in the United States; to the Committee on the Judiciary.

By Mr. MARKEY (for himself, Mr. ROYCE, Mr. PAYNE, Mr. CAMPBELL, Mr. MENENDEZ, Mr. MCDADE, Ms. MCKINNEY, Mr. BARRETT of Nebraska, Mr. SCHUMER, Mr. LATOURETTE, Mr. MCGOVERN, Mr. METCALF, Mr. STARK, Ms. RIVERS, Mr. HOLDEN, and Ms. FURSE):

H.R. 3916. A bill expressing the sense of the Congress regarding the need to address Nigerian advance fee fraud, and for other purposes; to the Committee on International Relations.

By Mr. MCCRERY (for himself, Mr. WATKINS, Mr. SAM JOHNSON, Mr. JEFFERSON, Mr. TAUZIN, Mr. COOKSEY, Mr. JOHN, Mr. LIVINGSTON, Mr. BAKER, and Mr. WATTS of Oklahoma):

H.R. 3917. A bill to amend the Internal Revenue Code of 1986 to change the determination of the 50,000-barrel refinery limitation on oil depletion deduction from a daily basis to an annual average daily basis; to the Committee on Ways and Means.

By Ms. MCKINNEY (for herself, Mr. SMITH of New Jersey, Mrs. LOWEY, Mr. HALL of Ohio, Mr. EVANS, Mr. SANDERS, Mr. OLVER, Mr. DEFAZIO, Ms. LEE, Mr. FRANK of Massachusetts, and Mr. FARR of California):

H.R. 3918. A bill to prohibit the transfer of lethal military equipment, helicopters, replacement structural components and ammunition for that equipment and helicopters, and other related assistance to the Government of Indonesia unless the President certifies that the Government of Indonesia has been elected in free and fair elections, does not repress civilian political expression, and has made substantial improvement in human rights conditions in Indonesia, East Timor, and Irian Jaya (West Papua); to the Committee on International Relations.

By Mr. NETHERCUTT (for himself, Mr. LIVINGSTON, Ms. DUNN of Washington, Mr. HAYWORTH, Mrs. MYRICK, Mrs. EMERSON, Mr. LATHAM, Mr. GILMAN, Mr. SAM JOHNSON, Mr. HASTERT, Mr. WICKER, Mr. HUTCHINSON, Mr. BARR of Georgia, Mr. MCCOLLUM, Mr. SOUDER, Mr. HASTINGS of Washington, Mr. METCALF, Mr. MICA, Mr. SESSIONS, and Ms. GRANGER):

H.R. 3919. A bill to direct the United States Sentencing Commission to provide penalty enhancements for drug offenses committed in the presense of children; to the Committee on the Judiciary.

By Ms. NORTON:

H.R. 3920. A bill to amend the District of Columbia Home Rule Act to eliminate Congressional review of newly-passed District laws, to provide the District of Columbia with autonomy over its budgets, and for other purposes; to the Committee on Government Reform and Oversight, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PORTMAN (for himself, Mr. HOYER, Mr. HORN, Mr. MORAN of Virginia, Mr. SESSIONS, Mr. CONDIT, Mr. DAVIS of Virginia, Mr. KUCINICH, Mr. SHAYS, Mr. MCGOVERN, Mr. TALENT, Mr. SANFORD, Ms. DELAURO, Mr. SUNUNU, Ms. KILPATRICK, and Mr. WEYGAND):

H.R. 3921. A bill to improve the effectiveness and performance of Federal financial assistance programs, simplify Federal financial assistance application and reporting requirements, and improve the delivery of services to the public; to the Committee on Government Reform and Oversight.

By Mr. SKEEN:

H.R. 3922. A bill to eliminate the regional system of organizing the National Forest System and to replace the regional offices of the Forest Service with State offices; to the Committee on Agriculture.

By Mr. STRICKLAND (for himself and Mr. WHITFIELD):

H.R. 3923. A bill to authorize the Worker and Community Transition Office of the Department of Energy to manage a fund to assist workers at, and communities surrounding, the Piketon, Ohio and Paducah, Kentucky uranium enrichment plants; to the Committee on Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII,

Mr. RIGGS introduced A bill (H.R. 3924) to authorize conveyance of 2 decommissioned Coast Guard vessels to Canvasback Mission, Inc., for use for provision of medical services; which was referred to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 8: Mr. REYES.

H.R. 95: Mr. PAUL.

H.R. 135: Mr. LUTHER.

H.R. 165: Mrs. CAPPS.

H.R. 339: Mr. SHADEGG.

H.R. 530: Mr. HOSTETTLER, Mr. HALL of Texas, and Mr. EVANS.

H.R. 598: Mr. NORWOOD.

H.R. 678: Mr. BALDACCI, Mr. DEFAZIO, Mr. DELAHUNT, Ms. MCCARTHY of Missouri, Mr. MATSUI, and Mr. SNYDER.

H.R. 687: Mr. STARK Mr. BECERRA, and Mr. COYNE.

H.R. 693: Mr. MCCOLLUM.

H.R. 978: Mr. BARCIA of Michigan.

H.R. 1037: Mr. SHAW and Mr. TANNER.

H.R. 1126: Mr. ROMERO-BARCELO, Mr. BARTON of Texas, Ms. DANNER, Mr. JONES, Mr. KOLBE, Mr. SPENCE, Mr. NEAL of Massachusetts, Mr. BAKER, Mr. NETHERCUTT, Mr. MCHUGH, Mr. TAYLOR of North Carolina, Mr. DIAZ-BALART, Mr. CONYERS, Mr. CUMMINGS, and Ms. SANCHEZ.

H.R. 1134: Mr. GILCHREST, Mr. JENKINS, Mr. KILDEE, and Ms. PRYCE of Ohio.

H.R. 1334: Mr. FAZIO of California and Mr. MANTON.

H.R. 1338: Mr. BARRETT of Wisconsin and Mr. BARCIA of Michigan.

H.R. 1450: Ms. RIVERS.

H.R. 1507: Ms. LEE.
H.R. 1521: Mr. ANDREWS and Ms. SANCHEZ.
H.R. 1524: Mr. RAMSTAD.
H.R. 1577: Mr. BUYER.
H.R. 1628: Mr. GILCHREST, Mrs. MEEK of Florida, Mr. HAYWORTH, Mrs. ROUKEMA, and Mrs. THURMAN.
H.R. 1995: Ms. KILPATRICK, Mr. LAFALCE, Mr. WYNN, Mr. HINOJOSA, Ms. CARSON , Mr. MOLLOHAN, Ms. SLAUGHTER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. TAYLOR of Mississippi, Mrs. JOHNSON of Connecticut, Mr. COYNE, Mr. NEAL of Massachusetts, Mr. MENENDEZ, and Mr. SKELTON.
H.R. 2004: Mr. SNYDER.
H.R. 2019: Mr. ENGEL.
H.R. 2023: Mr. HILLIARD, Mr. DICKS, and Ms. WATERS.
H.R. 2077: Mr. CAMPBELL and Mrs. MINK of Hawaii.
H.R. 2174: Mr. PASTOR, MR. GILMAN, Mr. ENGEL, Mr. CUMMINGS, Mr. LAMPSON, Mr. LEACH, Mr. MORAN of Virginia, Mr. VENTO, and Mr. DICKS.
H.R. 2450: Mr. SERRANO.
H.R. 2537: Mr. NORWOOD.
H.R. 2549: Mr. BAESLER and Mr. KUCINICH.
H.R. 2568: Mrs. THURMAN.
H.R. 2579: Mr. BARRETT of Nebraska.
H.R. 2733: Mr. PORTMAN, Mr. CHABOT, Mr. WOLF, Mr. LARGENT, Mr. PASCRELL, Mr. DAVIS of Virginia, Mr. LAFALCE, Mr. VISCLOSKY, Mr. BENTSEN, Mr. GREENWOOD, Mr. MCGOVERN, and Mr. REDMOND.
H.R. 2760: Mr. MANZULLO and Mr. MCINNIS.
H.R. 2761: Mr. OWENS.
H.R. 2828: Mr. LATOURETTE.
H.R. 2869: Mr. PICKERING.
H.R. 2888: Mrs. FOWLER.
H.R. 2923: Mr. SERRANO, Mr. YOUNG of Alaska, Mr. LEACH, and Mr. MARKEY.
H.R. 2941: Mr. WELDON of Pennsylvania and Mr. BLUNT.
H.R. 2951: Mr. DICKS, Mr. BUNNING of Kentucky, Mr. GREENWOOD, and Mr. SERRANO.
H.R. 2990: Mr. CASTLE and Mr. FORBES.
H.R. 2995: Mr. BECERRA.
H.R. 3008: Mr. SESSIONS.
H.R. 3156: Mr. KANJORSKI, Ms. KAPTUR, Mr. LAMPSON, Ms. DUNN of Washington, and Mrs. THURMAN.
H.R. 3205: Mr. HALL of Texas, Mr. TOWNS, Mr. BAESLER, Mr. BONILLA, and Mr. HILLEARY.
H.R. 3248: Mr. PAPPAS.
H.R. 3297: Mr. HOEKSTRA.
H.R. 3320: Mr. PALLONE, Mr. REYES, Mr. DELAHUNT, Mr. MOAKLEY, Mr. KUCINICH, Mr. GUTIERREZ, Mr. FORD, Mr. SANDLIN, Mr. ENGEL, Mr. SERRANO, Mr. BLUMENAUER, and Mr. LEACH.
H.R. 3396: Mr. NORWOOD, Mr. ISTOOK, Mr. HANSEN, Mr. HOUGHTON, Mr. HASTINGS of Washington, and Mr. DELAY.
H.R. 3470: Mr. ROMERO-BARCELO, and Mr. HILLIARD.
H.R. 3499: Mr. HASTINGS of Florida, Mr. PAYNE, Mr. FORD, Mr. CLAY, Ms. KILPATRICK, and Mr. HILLIARD.
H.R. 3500: Mr. LEWIS of Georgia.
H.R. 3514: Mr. OWENS.
H.R. 3524: Mr. BALDACCI.
H.R. 3531: Mr. MCGOVERN, Mr. COYNE, and Mr. SERRANO.
H.R. 3566: Mr. CASTLE.
H.R. 3605: Mr. VISCLOSKY, Mr. FATTAH, Mr. MASCARA, and Mr. STOKES.
H.R. 3610: Mr. KANJORSKI, Ms. PRYCE of Ohio, Mr. LATOURETTE, Mr. PALLONE, and Mr. PORTMAN.
H.R. 3624: Mr. DEUTSCH, Mr. KILDEE, Mr. BONIOR, Mr. RAHALL, Mr. LAMPSON, Mrs. MINK of Hawaii, Mr. OLVER, and Mr. LEWIS of Georgia.
H.R. 3629: Mr. ROTHMAN and Mr. SAM JOHNSON.
H.R. 3632: Mr. LEWIS of California, Mr. SMITH of New Jersey, and Mr. LEACH.
H.R. 3652: Mr. PAYNE, Mr. WAXMAN, Mr. GREEN, Mr. OLVER, Mr. EVANS, Mr. SANDLIN, Ms. CHRISTIAN-GREEN, Mrs. CAPPS, Mr. ACKERMAN, Mr. CONYERS, Mr. CLEMENT, and Mr. STARK.
H.R. 3707: Mr. ROHRABACHER, Mr. MCCRERY, Mr. CUNNINGHAM, Mr. WATTS of Oklahoma, Mr. SPENCE, Mr. HILLEARY, Mr. ISTOOK, and Mr. HALL of Texas.
H.R. 3734: Mr. BURR of North Carolina, Mr. SCARBOROUGH, Mr. BASS, Mr. Ehrlich, and Mr. ADERHOLT.
H.R. 3744: Mr. HASTINGS of Washington.
H.R. 3749: Mr. LIPINSKI.
H.R. 3758: Mr. LEWIS of Georgia, Mr. SANDLIN, and Mrs. THURMAN.
H.R. 3767: Ms. FURSE, Mrs. THURMAN, and Mr. STUMP.
H.R. 3783: Mr. PAXON and Mrs. JOHNSON of Connecticut.
H.R. 3792: Mr. PICKETT.
H.R. 3814: Ms. FURSE, Mr. NETHERCUTT, Mr. LIPINSKI, Mr. WATKINS, Mr. FROST, Mr. LANTOS, Mr. GEJDENSON, Mr. SANDLIN, Mr. MATSUI, Mr. BENTSEN, Mr. JENKINS, and Ms. KILPATRICK.
H.R. 3815: Mr. KIND of Wisconsin, Mr. SNYDER, Mr. BECERRA, Mr. LUTHER, Mr. GREEN, Mr. BRADY, and Mr. ADAM SMITH of Washington.
H.R. 3828: Mr. NUSSLE, Mr. WELLER, Mr. RAMSTAD, Mr. PETERSON of Pennsylvania, Mr. BUNNING of Kentucky, and Mr. GUTKNECHT.
H.R. 3829: Mr. HYDE.
H.R. 3858: Mr. WAMP.
H.R. 3877: Ms. STABENOW.
H.R. 3879: Mr. CLEMENT, Mr. GIBBONS, Mr. HASTINGS of Washington, and Mr. LARGENT.
H.R. 3886: Mr. TAYLOR of Mississippi, Mrs. CUBIN, Mr. HILLEARY, Mr. WATTS of Oklahoma, Mr. DOOLITTLE, Mrs. MYRICK, Mr. MCGOVERN, and Mr. CAMPBELL.
H.R. 3888: Mr. PETERSON of Pennsylvania, Mr. ALLEN, Mrs. EMERSON, Mr. METCALF, Mr. LATOURETTE, Mr. ENGLISH of Pennsylvania, Mr. HUTCHINSON, Mr. SAXTON, and Mr. WHITFIELD.
H.J. Res. 100: Mr. MANTON, Mr. MILLER of California, and Mr. DOYLE.
H. Con. Res. 203: Mr. BARRETT of Wisconsin, Mr. HASTINGS of Florida, Mr. GOODE, Mr. BOYD, Mr. CLEMENT, Mr. DIXON, Mr. SHERMAN, Mr. CUMMINGS, Mr. BRADY, Mr. MEEKS of New York, Mrs. KENNELLY of Connecticut, Mr. PETERSON of Minnesota, Mr. REDMOND, Mr. LOBIONDO, and Mr. BISHOP.
H. Con. Res. 229: Mr. BAESLER, Mr. BEREUTER, Mr. GRAHAM, and Mr. SHUSTER.
H. Con. Res. 233: Mr. SNYDER.
H. Con. Res. 266: Ms. KAPTUR, Mr. PORTER, and Mr. FRANK of Massachusetts.
H. Con. Res. 267: Mr. HILLIARD and Ms. JACKSON-LEE.
H. Con. Res. 268: Mr. BROWN of Ohio.
H. Res. 37: Mr. METCALF, Mr. BOYD, Mr. BECERRA, Mrs. MINK of Hawaii, Mr. DELAHUNT, Mr. STUPAK, Mr. BARCIA of Michigan, Mrs. MCCARTHY of New York, Mr. MCHALE, Mr. DOYLE, Mr. MOLLOHAN, Mr. RAHALL, and Mr. KIND of Wisconsin.,
H. Res. 418: Mr. VISCLOSKY and Ms. STABENOW.
H. Res. 438: Mr. TAYLOR of Mississippi, Mr. MCKEON, Mr. WATTS of Oklahoma, Mr. DOOLITTLE, Mrs. MYRICK, Mr. MCGOVERN, and Mr. CAMPBELL.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2183

OFFERED BY: MR. HORN

(To the Amendment in the Nature of a Substitute No. 8 Offered By: Mr. Hutchinson)

AMENDMENT NO. 17: Strike section 301 and insert the following:

SEC. 301. DISCLOSURE OF CERTAIN COMMUNICATIONS.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end the following new subsection:

''(d)(1) In addition to any other information required to be reported under this Act, any person who makes payments described in paragraph (2) in an aggregate amount or value in excess of $250 during a calendar year shall report such payments and the source of the funds used to make such payments to the Commission in the same manner and under the same terms and conditions as a political committee reporting expenditures and contributions to the Commission under this section, except that if such person makes such payments in an aggregate amount or value of $1,000 or more after the 20th day, but more than 24 hours, before any election, such person shall report such information within 24 hours after such payments are made.

''(2) A payment described in this paragraph is a payment for any communication which is made during the 90-day period ending on the date of an election and which mentions a clearly identified candidate for election for Federal office or the political party of such a candidate, or which contains the likeness of such a candidate, other than a payment which would be described in clause (i), (iii), or (v) of section 301(9)(B) if the payment were an expenditure under such section.''.

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 1: Page 137, after line 23, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 444. REPORT ON IMPACT ON EMPLOYMENT.

Not later than February 1, 2000, and annually thereafter, the Administrative Office of the United States Courts shall submit, to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report describing the specific impact that the amendments made by this Act have on employment in the United States.

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *105th* CONGRESS, SECOND SESSION

Vol. 144 WASHINGTON, WEDNESDAY, MAY 20, 1998 *No. 65*

Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, we press on with renewed hope for the debate over crucial issues before us. We know that if we trust You and proceed with honest exchange and civility, You will help us succeed together.

Make us so secure in Your love that our egos will not get in the way; grant us Your power, so we will not need to manipulate in a power struggle; free us from secondary loyalties, so we can focus on the future of our Nation as our primary concern. Thank You for the strength and vitality that You provide. We commit this day and our lives to You. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

Mr. ALLARD. Thank you, Mr. President.

SCHEDULE

Mr. ALLARD. Mr. President, for the information of all Senators, today the Senate will resume consideration of the tobacco legislation. There are two amendments currently pending, and it is expected that a vote on or in relation to one or both of those amendments will occur by 11 a.m. this morning.

It is hoped that following disposition of those amendments, Members will come to the floor to offer and debate remaining amendments to the tobacco legislation under short time agreements. Therefore, Members should expect rollcall votes throughout Wednesday's session as the Senate attempts to make good progress on this important bill.

I thank my colleagues for their attention, and I yield the floor.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. The able Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, it is our effort to try to divide the time between now and 11 evenly on both sides, although we are going to do that without a unanimous consent request. We would like to try to do it just as a matter of comity; and hopefully we can make that work.

I yield the floor.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The PRESIDENT pro tempore. The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Kennedy/Lautenberg amendment No. 2422 (to amendment No. 2420), to modify those provisions relating to revenues from payments made by participating tobacco companies.

Ashcroft amendment No. 2427 (to amendment No. 2422), to strike those provisions relating to consumer taxes.

Mr. WELLSTONE addressed the Chair.

The PRESIDENT pro tempore. The distinguished Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair.

Mr. President, I ask the manager that I may have 6 minutes to speak.

AMENDMENT NO. 2422

Mr. WELLSTONE. Mr. President, when the Congress first conceived of comprehensive tobacco legislation, the primary goal was to deter youth smoking—I will say that again—the primary goal was, and is, to deter youth smoking.

We have now discovered, through millions of documents—the State of Minnesota has led the way; my State, Minnesota, has led the way—that the industry has over the years intentionally marketed to our children, intentionally targeted our children. Our children, our sons and daughters—their profits. Our children's lives for their money. This is an unacceptable tradeoff.

Mr. President, do not take my words as a Senator from Minnesota as the final words on this matter. Let us just look at the tobacco companies' own documents.

An R.J. Reynolds document penned in 1976:

Evidence is now available to indicate that 14–18 year old group is an increasing segment of the smoking population. RJR-(tobacco) must soon establish a successful new brand in this market if our position in the industry is to be maintained in the long term.

Philip Morris in 1981:

Today's teenager is tomorrow's potential regular customer, and the overwhelming majority of smokers first begin to smoke while still in their teens . . . The smoking patterns of teenagers are particularly important to Philip Morris.

The 1998 report, ''Taking Action to Reduce Tobacco Use,'' published by the Institute of Medicine of the National Academy of Sciences, concluded—and I quote—

. . . the single most direct and reliable method for reducing consumption is to increase the price of tobacco products, thus encouraging the cessation and reducing the level of initiation of tobacco use.

● This ''bullet'' symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

And, colleagues, we can look at tobacco to see what effect raising prices has.

Between 1979 and 1991, real prices in Canada increased from $2.09 to $5.42. And when that happened, the smoking usage among 15- to 19-year-olds fell from 42 percent to 16 percent. This is dramatic evidence; it is not a conjecture on my part. It is an important analysis.

Now, colleagues, the tobacco industry has blitzed the Senate on this amendment. We have a second-degree amendment that doesn't want to do with any raise in price. And what are they saying? They are saying that this will bankrupt us. What are they saying? This will create a black market.

But, Mr. President, Jeffrey Harris, who is a leading and impartial expert, talks about the tobacco industry making about $5 billion in profits in the year 2003. It does not sound like they are going to go under.

And we can look at other countries—the United Kingdom, Ireland, Denmark, and Finland—all of which have added on taxes to reduce usage, none of which has had a problem with this black market which we are supposed to be faced with.

Mr. President, let me just simply say again what my colleague Senator KENNEDY has said. The $1.10 tax that we now have, the $1.10 increase in the price—Senator MCCAIN deserves a tremendous amount of credit for his leadership. But the fact of the matter is, if we had $1.10, we could decrease youth smoking by about 34 percent; that would be $1.10. If we went to $1.50, we could decrease youth smoking close to 56 percent.

I say to my colleagues, even if the evidence is somewhat ambiguous, even if there are other studies suggesting that this might not happen, at least to this extent, what side do we want to err on? Do we want to err on the side of not jacking up the price and dramatically reducing the demand, especially among teenagers and young people, and getting to a 60 percent reduction? Or do we want to err on the side of not having the price high enough, combined with other smoking cessation programs that we need to put in effect, and continuing to see our children addicted, continuing to see our children take up smoking tobacco, and continuing to see our children die at an early age?

Mr. President, let me conclude. Price increases will not bankrupt the industry. Price increases will not create a black market. What price increases will do is save lives. Let me repeat that one more time, because quite often what the tobacco industry has done over the years—I think my State of Minnesota has proven this through the documents that we have unearthed—is what they do is what they know how to do best, which is they simply lie and distort the truth.

So let me be clear about what this amendment is about. Colleagues, the price increase in the Kennedy amendment will not bankrupt the industry. The price increase that the Kennedy amendment calls for, $1.50, will not create a black market. What this price increase will do is save lives. It is for the lives of all Americans, it is for the lives of young people that should not die a premature death, that I ask my colleagues to support Senator KENNEDY's amendment.

Yesterday, my colleague from Massachusetts pointed out that an additional 40-percent increase will mean that 750,000 more children will not start smoking—750,000 children that won't start smoking. This is about saving lives. This is, I think, perhaps the most important public health amendment that we have, because if we want to dramatically decrease demand and stop smoking among teenagers, we have to get the price up there to lessen the demand. This amendment does that. I ask all of my colleagues to support this amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I want to thank my friend and colleague from Minnesota for his excellent presentation and his compelling arguments and for the persuasiveness of his argument.

The fact of the matter is on this issue the American people are on our side. The question is going to be in the next hour and a half or 2 hours whether the Members of this body are going to be on the side of the children of this Nation and on the side of the parents of this Nation in taking the kind of important steps that are recommended virtually by every public health official that has studied this issue over a long period of time. We have placed in the RECORD the various studies and the various support material.

The fact of the matter is, although there is some progress that will be made under the proposal that is before the Senate, what will happen if there is no change at all, if there is no change at all, is that we obviously will not see any reduction in youth smoking. With the proposal that is before the U.S. Senate now, we will see a 34-percent reduction in youth smoking as a result of the increase in the cost of cigarettes. With the $1.50 increase, a 56 reduction. The attorneys general established as a goal a 60-percent reduction. The Commerce Committee established as a goal a 60-percent reduction. Our particular proposal will go to 56 percent and with the kind of look-back provisions we will obviously be able to achieve this goal. That is what this issue is about.

We will have the opportunity, as the Senator from Minnesota has stated, to save 750,000 American children from smoking, and we will have the opportunity to save some 250,000 to 300,000 lives of children. This is the most important public health issue.

It is important for us to look at what is happening to the young children of this country over the period of the last 5 years. Look what has happened since 1991, 1993, 1995, 1997. Over this period of time, we have seen the absolute explosion in the utilization of cigarettes by young people in this country. The target of the tobacco industry, as demonstrated by their own material, has been with the youth of this country, and particularly with the minorities of this Nation. All you have to do is look at these statistics from 1991 through 1997. There is an 80-percent increase in black and non-Hispanic use of cigarettes, 80-percent increase. This is what is happening in the United States of America. Among Hispanics, it has gone up some 34 percent over the period of these past 6 years. Among white, non-Hispanic young people in our country, some 28 percent. This is an average rise, since 1997, of 32 percent—32-percent increase.

What all of that means in terms of addiction, what all of that means in terms of the dangers with substance abuse, this is a gateway drug. Members of the Senate are talking about doing something about substance abuse. You have a chance to do it in an hour and a half by doing something about curtailing the use by our teenagers of these cigarettes. This is a national tragedy. We have an opportunity in an hour and a half to do something about it.

You can have the various questions whether it really makes much of a difference if we move ahead with an increase in price or does it really make very much difference in terms of the young people of this country. Let's take a look at what the record has been from 1980 to the present time on the issues of price and the issues of teen smoking.

We can have study after study after study, but, Mr. President, for those opposed to this amendment, I hope they would be able to refute what this chart demonstrates, and demonstrates very convincingly. Here we have in the early 1980s and 1982, we have a sharp increase in the costs, the real price of cigarettes, and a sharp decline, considerable sharp decline in teenagers smoking. This is what Philip Morris said about that, and we are not talking about an academic study. We are not talking about medical economists. We are not talking about Members of the Congress and the Senate who just want to see an decrease in smoking because we somehow think there might be some reduction in teenagers smoking.

This is what the industry said in the Philip Morris memo from 1987 that was in the Minnesota trial: ''The 1982, 1983 round of price increases prevented 500,000 from starting to smoke''—that is indicated in this line here—''500,000 teenagers from starting to smoke. This means 420,000 of the nonstarters would have been Philip Morris smokers. We were hit hard. We don't need that to happen again.''

''We don't need that to happen again.''

No wonder out in the waiting room, in the reception room, I can't get in there because of the tobacco lobbyists—high-priced tobacco lobbyists. They don't want this to happen again. And it can happen. It can happen. It can happen in an hour and a half from now if the Members of this body are going to put the public health first in this debate on the issue that we have at hand.

Here the chart shows the increase in the price and the reaction as a result of the statistic—the reduction in teenage smoking—and the tobacco industry acknowledging the relationship. So we have, as we went through the period of the 1980s, the increase in the real price, and we saw a rather significant increase in the real price going up during this period of time, and we see the corresponding reduction in terms of the teenage smoking. Until when? Until when? Until 1991. Then what happened to the real price? The real price went down and the real price went down on what they call Marlboro Friday, when the Nation's largest tobacco company, Philip Morris, fired the newest salvo which reversed the decade-long use in smoking. They slashed 40 cents off the brand of Marlboros, the most popular brand among children. The strategy was designed to protect prices. If Philip Morris reduced prices by 50 percent in Massachusetts, and a month later, R.J. Reynolds—the second largest tobacco company, which manufactures Camels—had a corresponding reduction.

So we have the major tobacco companies going down, the major price going down. Look on this chart what has happened in terms of youth smoking, escalating, going up dramatically. Price decline, youth smoking increases; price increase, youth smoking goes down. We have seen that continue over a long period of time.

We could say what happened in here over the period for the last year or two, we have seen little blips going up, 10 cents, to cover the costs of various settlements they have had, an increase of 35 percent. It would not really reflect on this chart.

Now what we have seen in here is $5 billion in tobacco industry advertising, an explosion in advertising. It makes our case, Mr. President.

It makes our case for the proposal that we have at hand. Increase the cost and the price of cigarettes, do it in a significant time with a shock treatment of 3 years. The way that we saw it this time, it is going to have a dramatic impact on young people. Increase the antitobacco advertising, which is in this bill; develop the cessation programs, which are in this bill; strengthen the look-back provisions, which are in this bill; do the kind of prohibition on advertising that is in this bill, and you have the combination of elements that will work to bring a significant reduction in teenage smoking—a significant reduction in teenage smoking.

Mr. President, we must have learned from the past. We have a pathway here that is outlined by the history of this industry, and the things that have been effective—not just studies, not just testimony, not just surmise, but real facts, Mr. President. Over that long period of time, we have the incontrovertible case that has been made here yesterday, last night, and this morning, again, that cannot be answered. We will hear answers like, oh, well, we will develop a smuggling industry; we can't do this because we don't know where the money is going to be expended; we can't do this because we will have this or that kind of a problem.

There is an issue before the Senate: Can we do something with regard to seeing a significant, dramatic reduction in terms of teenage smoking? The answer to that is, yes, by supporting our amendment that virtually every public health official in this country supports—not only Dr. Koop, not only Dr. Kessler, but the Cancer Society, the Lung Society, and every public health group across the Nation, Republican and Democrat alike. That is the issue that we have. Now is the time to make that judgment. We will have the opportunity to do that in a short period of time.

Mr. President, I see others who want to address the Senate. I yield at this time.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, although we haven't established an exact time for the tabling motion, as I mentioned last night, we will try to do them sometime around 11 o'clock. But I do want the proponents and opponents of these amendments to have ample time to discuss and debate. I think we are working on an informal agreement that we will go from side to side. I see the Senator from Missouri here. If it is agreeable, I would like for him to have recognition next. I will just comment briefly, if I could.

If the Ashcroft amendment is agreed to, smokers won't be relieved of any price increase in this bill. Quite the contrary. If the amendment prevails, the States, at an enormous time and expense, will resume their suits, as we all know. There have been four settlements already, and 36 other States are in line. As we know from the other four States, they will prevail. There were four suits, four settlements. Minnesota is receiving twice—double—what they would have received as a result of the June 20 agreement between the attorneys general in the industry.

So let's not have any mistake. This amendment won't eliminate an increase in cigarette prices, because when the tobacco companies agree to pay the State of Minnesota a certain amount of money, they increase the price for a pack of cigarettes in order to be able to make a settlement. That is how it computes. Make no mistake, its passage will delay getting about the business at hand, and 3,000 kids a day will begin to smoke and a thousand will die substantially earlier as a result.

Mr. President, I will make more comments later. Have no doubt about the effect of the Ashcroft amendment, which would be simply to delay price increases and delay our ability to attack the issue of kids smoking, because there will be added expenses passed on to the consumer as a result of these settlements. In case the Senator from Missouri missed it, Minnesota and the tobacco companies just settled for double what had been in the original settlement. Those costs will be passed on to the person who purchases a pack of cigarettes. Economics work that way.

Mr. President, I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I wanted to indicate to my friend from Arizona that the Senator from Missouri indicates to me that he intends to speak for a relative period of time. It was agreeable to him as a result of that to try to accommodate a couple of Members over here, unless they want to wait until afterwards. I am just trying to balance it. Could the Senator perhaps give us some indication of the length of time, so we can try to pin this down?

Mr. ASHCROFT. Mr. President, I can't give a specific time. I would be pleased to let a couple of your folks go ahead, and I will follow them if that would be the understanding.

Mr. MCCAIN. We have to go back and forth.

Mr. KERRY. Mr. President, that is fine.

Mr. MCCAIN. He is going to talk sooner or later. I am sorry he can't determine how much time he is going to talk.

Mr. KERRY. Fine, Mr. President. We will try to stick with that.

A NEW GRANDCHILD FOR SENATOR LAUTENBERG

Mr. KENNEDY. Mr. President, a new grandchild for our good friend and colleague from New Jersey was born early this morning. That is joyous and good news. In the midst of this tumultuous debate, we can all join in wishing him congratulations.

Mr. LAUTENBERG. My daughter called at 8:30 saying that she had the baby at home at 5:30.

Thank you very much for the kind words.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

Mr. KERRY. With that appropriate announcement, and the joy that it brings, we will yield to the Senator from Missouri and take our licks.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

AMENDMENT NO. 2427

Mr. ASHCROFT. Mr. President, I rise today to discuss the tobacco bill. While

I will begin my remarks discussing my pending amendment to strike all of the consumer taxes out of the bill, I also wish to address the large expansion of Government in the pending legislation. I will discuss the inevitable black market that will result from the policies in this bill. I will also address the failure of this administration to focus its priorities and resources on teen drug use.

Mr. President, along with my colleagues, I am truly concerned about teen smoking. However, I do not believe that is the focus of this legislation. Teen smoking is not the central thrust of what is happening here.

This is a massive, massive tax increase on low-income Americans. Instead of helping children, it is very likely to end up hurting children and hurting families. I think it is important that we carefully review the content of this legislation with that in mind. Thirty-nine percent of high school students in Missouri reported smoking during the past 30 days. This is a terrible statistic to have to cite. However, communities in the State are looking for ways to reduce smoking in my State and it is working. It is working without destroying the capacity of low-income families to provide for their children. It is working without destroying the capacity of low-income families to be independent. It is working without an $800, or $900, or $1,000, or $1,600 tax increase on those low-income families. Three packs a day for a family at $1.50 a pack takes you to about $1,600 a year.

If we can find a way to reduce the impact of teen smoking without taking $1,600 a year out of the budgets of these poor families, that will be $1,600 a year that could be spent for education, $1,600 a year these families will be able to retain and spend for better health care, or it will be $1,600 a year these families can spend for food and clothing.

For example, I come from a town called Springfield, MO. It is my hometown. My family moved there when I was a very young lad. In stepping up its enforcement of local ordinances prohibiting the sale of tobacco products to teens, they are enacting constitutional limitations on advertising. Parents, teachers, and community leaders are working together to fight the problem. They think they can do it, if they work together. I believe they can do it. They can do it without ruining finances and the opportunity that low-income families ought to have to provide for themselves. The tobacco industry knows they can do it. As one tobacco executive stated, they can't win fighting teen smoking rules on the State and local level. The tobacco industry knows there are going to be rules there, and they can be there, and there can be effective rules.

If this tobacco bill contained the solutions to the problems that are being enacted in communities today, I don't think I could be here to argue nearly as effectively that this bill is not focused on teen smoking.

A lot of communities are making possession of tobacco products illegal for teens. This bill doesn't do that. This bill says it is all right for teens to have tobacco. This bill basically says it is all right for teens to smoke. This bill just says it is wrong to sell it to them and it is wrong to advertise it. But it doesn't really do anything about the possession of tobacco.

Although Congress has the authority, we do not make it illegal for minors to possess or use tobacco even where we control the local situation. We make the laws. We are the city government in some respects for the District of Columbia. It would be possible for us to say, at least where we have authority on military bases, or the District of Columbia, that we could have laws against teen smoking and against the possession of tobacco. But we don't have that in this bill. We only have rules regarding the point of sale. Whether one store or another can sell it, and whether or not they can be on top of the counter or under the counter, or whether or not the brand name can be visible, or things like that, even then we only make the retailers responsible for the transaction. There is no disincentive for teenagers to try to possess and acquire and smoke cigarettes. There is not any in this bill. This is designed as if teenagers are totally expected to be irresponsible. First of all, the decision is, they can't make good decisions; and, second, we don't ask them to make any good decisions. We don't even ask them to refrain from smoking in this bill.

We create a massive tax increase on 98 percent of smokers to try to discourage 2 percent of all retail sales. What do I mean by that? Two percent of all retail sales in smoking go to teenagers; 98 percent go to adults. So we are raising the taxes on 98 percent in order to try to create a disincentive for the 2 percent.

Unfortunately, I don't think we have done a very good job, because we don't even seek to make illegal the possession on the part of the 2 percent. If, in fact, we don't want teenagers smoking, why do we fail to say something about their possession of tobacco? Why do we fail to say anything about their smoking? It seems to me that we are missing the boat in a significant way if we don't say something about the smoking.

For a long time now, we have had a responsibility imposed on the tobacco companies, and appropriately so, to label cigarettes and to tell people the truth about cigarettes on the package. As a matter of fact, you can't even have a billboard about cigarettes without saying on the billboard something that is true about cigarettes. There ought to be said something through this legislation. We need truth in labeling on this legislation. There is a big truth-in-labeling problem here.

This is an $868 billion—that is not million, that is billion—tax increase. It creates Government programs; after-government programs funding, sort of, directed for the next 25 years to take decisionmaking away from future Congresses of the United States, designed to lock things in; creates a huge Government regulatory scheme the likes of which we have not seen since the Clinton proposal to nationalize the health care system.

Here you have a situation. You say you are against teen smoking. You don't even bother to outlaw possession of teen tobacco for teens even in places like the District of Columbia where you have the authority to do so. You do not do what lots of towns are doing around the United States of America in an effective program. You raise $868 billion worth of taxes, mostly on poor people, on people who can ill afford to pay it. You raise taxes on 98 percent of the smokers, who are the adults, in an effort to try to curtail smoking on 2 percent of the smokers, the young people.

We create this huge Government regulatory scheme which will have the Federal Government virtually in every store, supermarket, or convenience store telling them how to run their business. This designs a system that will undoubtedly create a black market in tobacco sales, a black market that will make Prohibition look like a very peaceful time in our country's history. Cigarette smuggling will become very, very lucrative. Some people think that smuggling doesn't exist in the United States now. There is a big problem in cigarette smuggling currently, but it is just the tip of the iceberg, which will become apparent if we continue on this plan to impose $1.50 a pack in terms of the cigarette tax on the working poor of America.

I happen to be a father of three children. I was delighted to hear the good news of the Senator from New Jersey. I happen to have some good news in my own family. These are the pictures of my grandson who was born just 8 weeks ago. I didn't really plan this to be a part of any presentation. But the Senator from New Jersey should have pictures shortly.

Mr. LAUTENBERG. Would the Senator like to give me a chance to show mine?

Mr. ASHCROFT. Yes. I yield, with the opportunity to regain the floor at the end of his display.

Mr. LAUTENBERG. I wish the Senator the same good fortune, I say to my colleague. I thank him.

Mr. ASHCROFT. I thank the Senator.

But I don't want my children to smoke. I hope that they have never smoked. I don't know that they have ever smoked. I hope my grandson never smokes. However, what I want more for them is that we have a Government that serves the needs of the American people rather than a Government that serves its own needs. I suspect that this bill, unfortunately, is a bill which tends to address the needs of Government, the perceived needs of the bureaucracy, as much as it tends to do

anything that is beneficial, and certainly the kinds of impacts on American families in terms of increased taxes on these hard-working individuals of low income would more than outweigh the benefit.

I have sought to amend this with a simple amendment. My amendment would strip this legislation of the provisions which impose $755 billion in new taxes on the American people. More precisely, my amendment strikes the upfront payment in the bill and the consequential outcome of that which would result in that kind of commitment by the American people of $755 billion.

Those who support this bill would like for the American people to believe that it is a tough tobacco bill. But what the American people are beginning to find out is that this bill, while it is tough, is going to be tough on the American people.

Mr. President, it is my understanding that there are Members who need an opportunity to speak. I would be happy to yield the floor on the condition that I would be given the floor at the conclusion of this time to speak.

Mr. MCCAIN. I object.

The PRESIDING OFFICER. The Senator from Missouri has the floor.

Mr. ASHCROFT. Mr. President, what the American people are beginning to find out is that tobacco companies won't bear the cost of this payment.

I regret my inability to cooperate with other Members of the Senate, but an objection has been heard. I will continue with my remarks, but I hope to be able to accommodate my colleagues.

Mr. President, what the American people are beginning to find out is that tobacco companies won't bear the cost of the payments, that consumers will. This bill requires that the consumers pay the price. A lot of people are distressed. A lot of people have come to the conclusion that big tobacco is not worthy of being favored. Frankly, there are a lot of things in this bill that big tobacco favors.

As a matter of fact, they helped write this bill. It has gotten a little bit beyond their desire in terms of a number of the requirements, but many of the components of this bill are there because big tobacco put them there, things that would limit the liability of tobacco companies and the like. But this bill, in terms of its taxes, is big money. This bill requires that the taxes be passed on to consumers in the form of higher prices.

There has been some discussion about whether these are really taxes or not, because they are not called taxes in the bill. That is another aspect about the truth in labeling that ought to exist here. We have required it of tobacco companies. We ought to require it of the Congress. These are charges which are authorized. They are authorized in the bill. They are basically required in the bill. But they are required to be collected as part of the price of cigarettes, and then the money is to be given to the Government. And the Government is to spend the money. But we refuse to call them taxes.

Now, whenever the price of something is increased with the requirement that the money be given to the Government and that the Congress then decide how the money is spent, that looks an awful lot like a tax. That is the definition of a tax. Our failure to call it a tax in the bill doesn't mean that it is not a tax. It just means that it is a tax that we will not admit is a tax.

They say if it walks like a duck and squawks like a duck, if it quacks like a duck and acts like a duck, it is probably a duck. Well, this is a higher price that is charged for these cigarettes. It is collected from the people. It gets transmitted to the Government and the Government spends it on Government programs. Now, I think that walks like a duck and squawks like a duck. I think it acts like a duck and quacks like a duck. I think it is a duck or it is a tax, if you want to use that word.

And here is the provision from the bill itself. I guess it is section 404—I need to be corrected on that—instead of section 405. Frankly, we haven't had this bill in its final form long enough to examine it. This is another one of these bills that comes to the floor of the Senate before the Congressional Budget Office has had a chance to score it, before anybody has a chance to read it. We throw it on the desk and we say we are starting to debate it. Little wonder we have some of these numbers wrong.

Section 404 says, ''Payments to be passed through to consumers.'' So all the big, heavy penalties in this bill, they are not to be borne by the tobacco companies. These are to be borne by consumers. Consumers are going to pay for this. And, obviously, that is something. So that the bill doesn't just allow tobacco companies to recoup their costs, it requires that they not impair their profits, that they not otherwise find ways to keep the consumers from paying this very massive tax, a regressive tax that hits the poor people of America the most. It requires that these taxes be paid by consumers. The only way this bill is going to have a major dent in the way tobacco is consumed is that the Federal Government gets paid big, big bucks.

As I indicated earlier, many local communities—State, city and county governments—are providing ways to reduce teen smoking. They want to do it by outlawing the possession of tobacco by young people so that smoking by young people would be considered illegal. This bill doesn't do that. This bill taxes the 98 percent of the adult smokers at an incredibly high rate, along with the 2 percent of teen smokers, and really impairs the ability of families to make ends meet. It actually penalizes the companies if they do not pass these costs on. So no company, no tobacco company is to pay any of this $755 billion that I am seeking to delete in this amendment. It is illegal, according to the bill, to have the tobacco companies pay any of this money. This money is to be paid by consumers.

Also, my amendment strikes the annual payments required by this legislation. Again, this bill actually requires the tobacco industry to pass along this cost to consumers. Remember, these are not the real penalties on tobacco companies. These are taxes levied on the users of tobacco products. Under this amendment, tobacco companies would still pay hefty penalties if teenage smoking targets are not met.

So my amendment does not save the tobacco companies from paying penalties if the teenage smoking targets are not met. The incentives for the tobacco companies to avoid teenage smoking are left in this bill, and there is a serious penalty in the bill that would require that the payments be made by tobacco companies if we do not reduce teen smoking. That is left alone. What I take out of the bill is the $755 billion in taxes on consumers.

A lot of people wonder why, if the tobacco companies are the bad folks, as the subject of this bill, that instead of taxing the tobacco companies, we are taxing consumers. Well, they ought to wonder about that. Basically, what we do is we leave the requirement that teen smoking be reduced, we leave the penalties if you do not reduce teen smoking on the tobacco companies. But we stop the tax that will take $800, $1,000, $1,600 from three-pack-a-day families, $1,600 a year out of their budgets, out of their take-home budgets.

So our approach is not to say that the tobacco companies should not be responsible for reducing teen smoking. Tobacco companies were responsible for promoting it. This amendment does not say they are not responsible for reducing it. This amendment says the tobacco companies will be responsible for reducing it, and if these tobacco companies do not get it reduced, they, as a matter of fact, are going to be in serious trouble. They are going to have to pay very significant penalties. But I do not believe we should say that the American people are the ones who should be penalized for the conduct of the tobacco companies.

Frankly, that is what this bill does. There is a lot of evidence in this case, in this situation about tobacco companies and about their conscious desire to focus their advertising on teen smokers and potential teen smokers, and there is a big presumption that if people didn't start when they were teens, they wouldn't start later. It might be that those people would start later on. You know, you can't automatically assume that if someone starts when he is 14, if you don't let him start when he is 14, that he would not start later when he was 18, 19 or 20. Everybody starts driving a car at the age of 16. That doesn't mean, if you move the age up to 20, that nobody would start driving a car later on.

There is a presumption in all this data that somehow if they didn't start when they were younger, they wouldn't start later. These same people who start young while it is legal now may start older when it is legal later if we were to do something like this. I don't think that presumption follows.

But Americans already are burdened with taxes that are inordinately high. Americans today are working longer and harder than ever before to pay their taxes. How many families are there with both parents in the workplace, working day, working night, trying to make ends meet, trying to have food and clothing for their children? And they are already paying incredibly high taxes. We are now paying the highest taxes overall in the history of this country. And surprisingly enough—I suppose that it is not all that great a surprise—we have got taxes to the point where the Federal budget is in surplus. The Congressional Budget Office indicates that the surplus will be between $43 billion and $63 billion. I think that when we have a surplus, we ought to be debating how we reduce taxes on people, how we make it easier for them and their families, how we somehow make it possible for them to meet the needs of their families instead—not how to siphon more money out of the pockets of working Americans.

Mr. LAUTENBERG. Will the Senator yield for a question?

Mr. ASHCROFT. I will yield for a question with the understanding that I do not lose my right to the floor.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator has a right to yield for a question without losing the floor.

Mr. LAUTENBERG. The Senator makes a statement that if this fee was not paid, it would enable the family to spend—I think the figure used was $1,600 on food and clothing. The Senator said that earlier. And if the addict is using the money to buy cigarettes, that certainly doesn't free up any additional spending power unless the Senator sees another way to do it. I am not quite sure I understand where the Senator goes with that.

Mr. ASHCROFT. I am not quite sure I understand the question. Are you saying that they will use the money to buy additional cigarettes? If you want to restate the question, I will be happy to have you do so. I do not want to lose the floor by having a restatement of the question.

The PRESIDING OFFICER. The Senator does not lose the floor by yielding for a question.

Mr. LAUTENBERG. The Senator before said that $1,600 a year that the person would pay in additional taxes would prevent them from having the ability to spend it on food and clothing, et cetera.

But, eventually, over a period of time that would be a cost which does not exist altogether for a million teenagers, and they would, therefore, be able to exchange the money not used to buy cigarettes, if they were able to close out on the smoking addiction, to be used for other things; is that not true?

Mr. ASHCROFT. If the Senator is making the point that these people will not be buying cigarettes and therefore would not be paying this tax, that is contrary to what this bill assumes. This bill assumes this income. And in order to assume this income, you have to presuppose that people will not stop buying cigarettes.

You cannot get $868 billion over the next 25 years if people stop buying cigarettes. The first presumption of this bill—there are several presumptions—is that people are addicted. That is one of the evils we are supposed to be addressing. But after we presume they are addicted, we take advantage of the addiction by imposing a tax on the addicted. And then we spend the money we receive from the tax. If they are going to quit smoking because the price goes up, then we are not going to get the money. You can't have both the ''quit'' and the ''money.'' If people quit smoking, they won't pay the tax, and we have $868 billion in this bill that we are presuming people are going to go ahead and pay. That is the money I am talking about, the $868 billion that is coming out of the budgets of families.

What is stunning to me is that 59.4 percent of this tax increase, 59.4 percent of it comes from people who make less than $30,000 a year. 60 percent of the $800 billion—about $500 billion—is coming out of the pockets of people who make less than $30,000 a year. We take that out of their pockets. We can't spend it here if they don't send it here. So this whole bill is predicated on them sending it here. And when they send it here and we spend it, that means they can't spend it.

What do we spend it on? We spend it on 17 new boards and commissions, or—I guess there is an amendment now which says these are no longer to be identified as boards and commissions. So we have gone from the lack of accountability of boards and commissions, to the anonymity of stealth commissions and boards that will be tucked away in agencies. All the spending will still take place, but it will be done without as many labels.

We are talking about a massive tax increase of $868 billion. That is what is going to happen. That is what is projected. You don't get the money from the people at the same time they keep the money. This money can only be in one place.

Mr. HATCH. Will the Senator yield for a question without losing his right to the floor?

Mr. ASHCROFT. I would.

Mr. HATCH. The $868 billion is one of the estimates, is it not——

Mr. ASHCROFT. Yes, it is.

Mr. HATCH. Of Wall Street analysts who have thoroughly developed tobacco models, economic models, and have spent literally years developing these models?

Mr. ASHCROFT. Yes.

Mr. HATCH. They say that when you extrapolate out the $1.10 price of the Commerce Committee bill—or the managers' amendment as I think we should call it—the actual price tag could range as high as $868 billion, because the $1.10 number is based solely on the manufacturers' level and does not count the wholesale or retail markups or any other factors which could lead to price increases, such as state excise taxes?

Mr. ASHCROFT. I think this is more conservative. If you were to go beyond the $1.50——

Mr. HATCH. I am saying the $1.50 would be even higher, wouldn't it? That is what I am asking.

Mr. ASHCROFT. Yes. That's exactly right.

Mr. HATCH. The $1.50 number is certain to be even higher?

Mr. ASHCROFT. We have understated the burden here.

Mr. HATCH. Could I also ask my friend another question? Those who are arguing for a $1.50 price increase are saying there will be no black market, that there will be no smuggling any consequence. Is it not true that after California raised its excise tax in 1988, today they are finding that one out of five packs of cigarettes are contraband today. Is that not true?

Mr. ASHCROFT. I have to look at my own experience as Governor. We even had problems with smuggling from neighboring States that had low tobacco taxes. Contraband is already a big problem in tobacco.

Mr. HATCH. Let me just show you this chart in connection with my next question. It is one thing to talk about Norway, Denmark and the United Kingdom as some have in this body. It is entirely another thing to talk about the United States of America where most of the big tobacco companies actually reside and exist.

This chart shows U.S. cigarette imports from Canada, 1984 through 1996. You notice it was relatively level here up until 1990, when Canada suddenly increased their excise taxes dramatically. Then, all of a sudden we have imports from Canada going up dramatically. There were U.S. cigarette imports from Canada in 1984, imports which then went back into Canada and sold as contraband at a lower price. Is the Senator aware of that?

Mr. ASHCROFT. I am aware of that. I think we invite a disaster in terms of black marketing and in all kinds of legal violations. We are going to be introducing young people to illegal ways of transacting business on the black market. We are going to be introducing young people to segments of society they should not be associating with.

Mr. HATCH. The Senator serves on the Senate Judiciary Committee with me, and I believe is fully aware of the hearings, where we discussed the fact that four major law enforcement organizations representing hundreds of thousands of policemen in this country

said that if we go to $1.10, which we believe could extrapolate as high as $800 billion, that we would have a dramatic increase in contraband which would spawn all sorts of violence?

Mr. ASHCROFT. I am.

Mr. HATCH. The Senator is aware of these compelling arguments from law enforcement?

Mr. ASHCROFT. I am aware of that.

Mr. GRAMM. Will the Senator yield on this point?

Mr. ASHCROFT. I would be happy to yield for a question.

Mr. GRAMM. I want to pose a question related to what the Senator from Utah has said. The Canadian experience, as the Senator is probably aware, is critically important because many economists and others who study this data claim that the numbers asserting a 10-percent increase in prices results in a 6-percent decrease in consumption are false. In fact, if these numbers really held true, we could increase prices by 200 percent and eliminate all smoking in the country. Everyone knows that is a nonsensical result.

Is the Senator aware that, when challenged on this point, the administration has used the Canadian experience as proof of the success of raising taxes? When challenged on the assertion that there is clear and convincing evidence of a dramatic decline in smoking and teenage smoking as a result of tax increases, administration spokesman and Treasury Department official, Jonathan Gruber pointed to the Canadian experience. I would like to read from an editorial by Nick Brookes printed in today's Washington Post. Mr. Brookes is talking about the Canadian experience and quotes the health minister of Canada. Basically, as the Senator from Utah pointed out, the Canadians had such a disastrous experience with black markets and smuggling that it actually drove the effective cost to teenagers of cigarettes down, not up.

Mr. HATCH. If the Senator will yield——

Mr. ASHCROFT. I reclaim the floor.

Mr. GRAMM. Let me finish my question.

The PRESIDING OFFICER. The Senator from Missouri has the floor.

Mr. GRAMM. Let me finish my question and then the Senator from Utah will have the opportunity to ask one.

Mr. HATCH. I will be happy to do that.

Mr. MCCAIN. We need to have the regular order here in the Senate. Everybody has a right to speak, but we ought to have a regular order, parliamentary routine here.

The PRESIDING OFFICER. The Senator from Missouri has the floor and he has the right to yield for a question.

Mr. GRAMM. Will the Senator yield?

Mr. ASHCROFT. I will be happy to yield to the Senator from Texas for a question.

Mr. GRAMM. Returning to the point on which I would like to base the question. The administration assets that there will be a dramatic impact on teenage smoking by raising tobacco taxes. The question about the impact of higher taxes on teenage smoking was posed today in USA Today. When Americans were asked, ''Do you believe higher cigarette taxes will reduce teen smoking?'' 70 percent said no and 29.9 percent said yes? Is the Senator aware of that?

Mr. ASHCROFT. I was not aware of that, but I am happy to have the Senator point it out.

Mr. GRAMM. The point I want to make is this: The administration has used the Canadian experience as proof of the effectiveness of raising taxes on teen smoking. Canada raised taxes dramatically on cigarettes and then later decided to cut taxes. Is the Senator aware that the Health Minister in Canada, Diane Marleau, has said that the Government's decision to cut taxes in Canada would actually reduce consumption among teenagers because it would ''end the smuggling trade and force children to rely on regular stores for cigarettes where they are forbidden to buy them until they turn 19?''

Mr. ASHCROFT. I am aware of that, and I think it is a very important point.

Mr. GRAMM. Is the Senator aware that in Illinois, Massachusetts, Hawaii, and Nebraska teenage smoking has increased as cigarette taxes have risen?

Mr. ASHCROFT. I am aware of that, and I think it reinforces the point that the Canadian Health Minister was making, that there are times when an increase in the price increases the interest of youngsters in smoking.

Mr. GRAMM. Is the Senator concerned that that we could get into a position of having an active black market, as is true now in many countries in northern Europe, in Canada, and in many of our own States with high tobacco taxes? If we end up spawning a black market so that cigarettes are purchased by teenagers and by adults illegally, does the Senator share my concern that we could get into a situation where the black marketing of cigarettes could become an entre to inducing people to take a step beyond cigarettes to drugs?

Mr. ASHCROFT. If cigarettes sold illegally become commonplace, it might well be that people will have greater access to an array of contraband items—''Here, you can either buy cigarettes from me, or you can buy marijuana from me, or you can buy drugs from me.'' I am aware of that potential. I answer the question of the Senator from Texas by saying I am not only aware of it, but I am deeply concerned about it because drugs are a serious threat. They, in many respects, are far more serious than the threat of cigarettes.

Mr. GRAMM. Is the Senator aware that in a poll taken last week, American families were asked what concerns they have about what their teenager is doing? Thirty-nine percent were concerned about illegal drugs, 16 percent were concerned about joining a gang, 9 percent were concerned about their teenager drinking alcohol, 7 percent were concerned about their teenager having sex, 7 percent were concerned about their teenager driving recklessly, and 3 percent were concerned about smoking. So if we create a black market by increasing tobacco taxes, we could easily be taking a step that converts an issue that concerns 3 percent of American families into an issue that concerns 39 percent of American families, that is their teenager using illegal drugs.

Mr. ASHCROFT. I am aware of that. I think the American people have a pretty clear understanding of what the most serious long-term threats are, and they rank those appropriately. I think it would be a tragedy if we were to, out of good intentions, do something which resulted in a black market and promoted drug use and smoking on the part of teenagers rather than curtailing both of those.

Mr. GRAMM. I will ask one final set of questions, and then I will yield the floor.

As the Senator said, 34 percent of the cost of this tax will be paid by families earning less than $15,000 a year, 13.1 percent will be paid by families earning between $15,000 and $22,000 a year, and 12 percent will be paid by families earning between $22,000 and $30,000 a year.

The Joint Tax Committee estimates that an individual making less than $10,000 a year would see a 41.2 percent increase in their Federal tax burden as a result of this tax increase. The newest numbers I have seen indicate that an individual who smokes could see their Federal tax burden rise by $356 as a result of this tax. A couple where both husband and wife smoke would see their tax burden rise $712 a year as a result of this tax.

Here is my question: Considering the concern the Senator from Utah has about black markets, what will the price of a pack of cigarettes be under this bill?

It is my understanding that today, depending on which State you live in, the price is roughly $2 a pack. The underlying bill has a $1.10 tax per pack increase, and a series of other provisions that will drive up the cost, including, the look-back penalty, some estimate it could be as high as 44 cents per pack; the liability cost, 50 cents per pack; the licensing fee, 14 cents per pack; and the decline in volume could be as much as 48 cents per pack.

I do not know how to assess these numbers. I certainly do not claim to be an expert on them. Does the Senator have any idea, what the price of a pack of cigarettes will be under the McCain bill and how much a pack of cigarettes will be if this new amendment, raising the cost $1.50 per pack, is adopted?

It is a critical question. If we know the cost will be $5 a pack, for example, we can look at the experience of Europe where they have similar taxes. We could look at their black market structure, look at the amount of illegal

transactions occurring, and begin to see what the impact of this will be. But nowhere have I seen any bottom-line figure on what the price of a pack of cigarettes will be as a result of the underlying bill and the amendment that the Senator is trying to kill through his amendment.

Does the Senator have any data on that?

Mr. ASHCROFT. There is some data on that. Some analysts have predicted that the price per pack would be much more than the $1.10 increase by the time you work it through the system. They have estimated that the increase will be $2.78 a pack.

Mr. GRAMM. So that would mean roughly $4 a pack, depending on what State you are in?

Mr. ASHCROFT. I think the price these analysts have indicated is $4.68. You first tack on the $1.10 tax. Then you add all the other costs in this bill that will most likely be passed on to consumers. Then the look-back penalties capped at $3 billion a year have to be added. The liability of $8 billion a year capped has to be added. In the analysis, it was assumed only 20 percent of this will have to be paid out every year. However, due to changes in the bill, and no doubt on behalf of the trial lawyers, I think 100 percent of the $8 billion will be paid out every year.

It is clear to me that you have a very serious price increase. And the suggestion that it is $1.10 or $1.50 is very, very conservative. The truth of the matter is it is likely to be 2 to 3 times that much.

Mr. CONRAD. Will the Senator yield on that point?

Mr. GRAMM. Will the Senator continue to yield?

Mr. ASHCROFT. I continue to yield for a question.

Mr. GRAMM. No one knows exactly the impact of this tax increase. One of the things we need to know, in order to estimate the impact of the bill on things like a black market, is what would be the price of a pack of cigarettes. I assume the Senator is aware that one-half of all cigarettes consumed in Great Britain are purchased on the black market. When you reach the threshold of promoting illegal activity, you end up not getting the revenues and dramatically lowering the price of the product. By adopting this amendment we could actually lower the effective price to teenagers of tobacco products by creating a black market that would come from the increase in price.

Is the Senator concerned about that?

Mr. ASHCROFT. I am concerned about that.

Mr. HATCH. Would the Senator continue to yield to me?

Mr. ASHCROFT. I yield to the Senator from Utah for a question.

Mr. HATCH. I have a series of questions I want to ask. I did enjoy and appreciate the questions asked by the distinguished Senator from Texas, because he raised a lot of very important points that were brought out in the Judiciary Committee's hearings.

Keep in mind, when the Treasury Department testified before the Judiciary Committee, I sent a letter to Secretary Rubin beforehand asking for the economic model they had used to justify their forecast. All they brought was a five-line chart—no model, no backup justification, no real economic analysis.

We had three of the top Wall Street analysts come in and provide us with very highly thought-through analysis showing that the price of cigarettes per pack could go up somewhere between $4.68, $4.78 and $5.00 or thereabouts. And that is on the basis of the Treasury's projected $1.10 increase, not the $1.50 figure we are debating today.

Now, my friend and colleague, Senator KENNEDY, has made a passionate plea here for $1.50. That would mean at a minimum an additional 40 cents more on each pack of cigarettes, although it will probably be higher. That is at the manufacturer's level. That does not count all the extrapolated things the distinguished Senator from Missouri has talked about.

Is that right?

Mr. ASHCROFT. That is correct.

Mr. HATCH. The Senator from Massachusetts has suggested that the bill increase each pack of cigarettes by $1.50 instead of $1.10.

Of course, everybody knows that the distinguished Senator from Massachusetts and I share a common goal of reducing youth smoking, as evidenced by the Hatch-Kennedy bill which was enacted last year. That bill added an excise tax to reduce youth smoking and to help with child health insurance.

But is the Senator aware that there is no proof that raising the price by $1.50 per pack would reduce youth smoking by 60 percent as has been alleged? Are you aware of that?

Mr. ASHCROFT. There isn't any proof.

Mr. HATCH. Not any?

Mr. ASHCROFT. It is a vast presumption, and it is a dangerous presumption.

Mr. HATCH. Is the Senator aware there is domestic and international evidence that such a price increase will worsen problems for law enforcement officers and lower-income taxpayers?

Now our colleague from Massachusetts showed a chart of Canadian cigarette prices and youth smoking over time. Let me point out that chart also demonstrates how youth smoking is not predicted by price.

Between 1979 and 1981, Canadian prices were static, but youth smoking decreased by 10 percent. Is the Senator aware of that?

Mr. ASHCROFT. I am pleased to be aware of it.

Mr. HATCH. All right. Our colleague from Massachusetts also suggested we can use the Canadian experience to predict American youth behavior. If true, then American and Canadian youths smoke for the same reasons—peer pressure and status. Many experts agree that status smoking, like $150 tennis shoes, is far less price sensitive. Even a $1.50 price increase will fail in head-to-head competition with ads like this in Sports Illustrated for Camel. Here is an attractive model smoking a cigarette—''What you're looking for'' the advertisement says.

The fact of the matter is that many members of the scientific and medical communities do not see as essential a price increase of up $1.50.

Is the Senator aware that after following 13,000 kids for 4 years, Dr. Philip DeCicca of Cornell University, in a National Cancer Institute funded study—a National Cancer Institute funded study, a public health study, if you will—found ''Little evidence that taxes reduce smoking onset between 8th and 12th grade''? Are you aware of that?

Mr. ASHCROFT. I am.

Mr. HATCH. Dr. DeCicca's analysis is even more compelling when you look at our principal target, those kids who never smoked. He found that the effect of price on the probability of starting to smoke by grade 12 was essentially zero, zip, zero; that price did not influence them. Children were going to use tobacco products anyway because of peer pressure and status. It had no effect.

Is the Senator aware of that?

Mr. ASHCROFT. I am aware.

Mr. HATCH. This study is crucial because it is perhaps the only scientific study tracking the smoking behaviors of the same kids over a period of time. All other studies have relied on a cross-sectional analysis of unlike communities.

Now, is the Senator aware that just a few days ago the Congressional Research Service released its updated report, ''The Proposed Tobacco Settlement Effects on Prices, Smoking Behavior and Income Distribution,'' where they carefully reviewed the scientific literature on the effects of price on youth usage?

Now, let me just quote from that report. And I want to ask the Senator if he is aware of this?

The findings in these studies cast doubt on the large participation elasticities that were initially assumed in formulating policies to reduce teen smoking.

Perhaps this is true because while 36.5 percent of youth have smoked in the past month, only 14.3 percent of youth smoked more than 10 cigarettes each day. Experts believe addicted persons are less responsive to price.

Now, let us not fool ourselves. Kids are different from adults and often unpredictable.

Is the Senator aware of those facts?

Mr. ASHCROFT. I certainly am. And I think the nature of the questioning of the Senator is very helpful in developing for us all an understanding of the real impact of price in terms of teen smoking. I welcome his questions.

Mr. HATCH. I believe the Senator will remember, if he will, that Dr.

Frank Chaloupka, who testified before the Judiciary Committee, has written: ''Youth and young adults have been found to be less responsive to price than older groups.''

Is the Senator aware of that?

Mr. ASHCROFT. I am aware of that. I was grateful for his important contribution.

Mr. HATCH. Our colleague from Massachusetts showed a chart entitled, ''Cigarette Prices and Daily Cigarette Smoking Among Canadians Age 15 through 19'' which he suggested concludes the price increase caused all of the reduced youth smoking.

Is the Senator aware of that?

Mr. ASHCROFT. Yes, I am.

Mr. HATCH. Let me bring to the Senator's attention, during that same period, U.S. youth smoking decreased by 40 percent. So much for that argument of the Senator from Massachusetts. Were you aware of that?

Mr. ASHCROFT. I am aware of that.

Mr. HATCH. I have one final concern about the chart displayed by our colleague from Massachusetts on tobacco use and price. That chart ended in 1991. It did not include any data since then. I want to show you this chart again.

This chart shows the growth of Canadian exports to the United States. You will notice up until 1991 the growth was minimal, hardly at all. And then it moved suddenly up. The Judiciary Committee heard testimony that most of these cigarettes were smuggled back into Canada. Now, since smugglers do not seek IDs, I suspect youth were able to easily obtain bootleg cigarettes at an affordable price. Maybe this is why we have not seen the smoking prevalence rates and prices beyond 1991; perhaps that is why the chart of the Senator from Massachusetts ended there. But this is when they hiked up the excise tax in Canada. Look how the imports from Canada to the United States went up. Of course, they continued to just skyrocket because they were sending their exports to the United States and then the contraband was coming back.

Only when they had to voluntarily reduce their prices did their exports to the United States go down.

Mr. ASHCROFT. If the Senator is asking if that represents a black market for cigarettes in Canada, I think he is right. These were imported to the United States for smuggling back into Canada, and it represents that while the prices were high in Canada, there was a real aggravated problem with a black market in Canada. As long as you sell cigarettes illegally, I think selling them to underage individuals is an easy next step.

Mr. HATCH. If you listen closely to the debate, you will hear some assert with mathematical certainty that we need to increase the tax on cigarettes by $1.10 a pack, or $1.50 a pack, or by $2 per pack to get the maximum health impact in terms of youth participation rates.

We saw that yesterday in the arguments from the Senator from Massachusetts and the Senator from North Dakota, respectively.

Mr. CONRAD. Will the Senator yield?

Mr. HATCH. If I could finish my questions to the person who has access to the floor.

And we have heard more today along those lines.

Now, we will hear about the Surgeon Generals' reports, about the Institute Of Medicine report, about the Chaloupka study. Is the Senator aware of the widely-cited findings that for every 10 cents that the price of tobacco goes up we can expect to see a 7-percent decrease in youth smoking? Is the Senator aware of that?

Mr. ASHCROFT. I am aware of that citation and study. I don't believe it.

Mr. HATCH. Let me go further. I am sorry to take so much of the Senator's time, but I think it is important.

Mr. ASHCROFT. I think this is important.

Mr. HATCH. Those figures sound impressive at first, but we need to stop and question how applicable such a study is for a complex adolescent social behavior and for the price increases we are debating today. Are there not limits to extrapolating this estimate into the price range that we are talking about today?

Mr. KERRY. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. KERRY. Does the Senator not have to ask a legitimate question?

Mr. HATCH. I have been asking questions one right after the other.

The PRESIDING OFFICER. The Senator from Missouri has the floor, and he does have the right to yield for a question.

Mr. KERRY. Would the Senator permit a parliamentary question? Would the Senator from Missouri yield for a question?

Mr. ASHCROFT. The Senator from Missouri has yielded for a question, which is underway. As soon as the Senator from Utah is finished with his question, I will be happy to yield for another question.

Mr. HATCH. Is the Senator aware—and I apologize to my colleagues. I do want to get through this, because this is important. The distinguished Senator has raised these issues. He deserves a lot of credit.

And, secondly, I point out that the other side had a lot of time last night and this morning to talk about their positions on this. The record should be made clear that many of their allegations are incorrect. I believe the evidence shows that they are incorrect. I think the Senator's answers to my questions will help to show that there is a dramatically different explanation for many of the charts which have been displayed here last night and this morning.

Let me ask some more questions. Is the Senator aware there must be some limits to extrapolating this estimate into the price range we are talking about, because if we just straight-lined this projection to a $1.50 increase, we would have to expect that literally all youth smoking would cease? That would be news to those many countries with cigarette prices which are more than $1.50 higher than in the United States.

Mr. ASHCROFT. I am aware of that. I think it is a point well made.

Mr. HATCH. I ask the Senator if he is aware of this? First, I believe both intuitively as a parent and grandparent many times over, and from examining the data, that if we raise the price of a product like cigarettes, as a general matter, we can expect children to purchase less of it—at least that is the common economic thought. But having said that, and, after all, it is a simple matter of economics that other factors are held constant. As price goes up, we can expect quantity and demand to go down.

I want to take just a few minutes to look behind the actual data of some of the frequently cited studies. Is the Senator aware that a fair reading of the literature suggests we are not dealing with some sort of simple, timeless, immutable algorithm when we are dealing with the price/elasticity issue?

Is the Senator aware of that? He has been making that case here this morning.

Mr. ASHCROFT. I am.

Mr. HATCH. I ask the Senator, isn't it reasonable to question that a difference between the $1.10 tax and the $1.50 will not necessarily mean 800,000 premature deaths?

Mr. ASHCROFT. I think the Senator is entirely correct; to assume that you can just automatically make that kind of change really is poor economics. It starts in the primer and stays there rather than finding out the way in which the real world would react.

Mr. HATCH. Is the Senator aware it is unclear if such an analysis is focusing on tax receipts made to the Treasury or the actual at-the-cash-register price?

Mr. ASHCROFT. Yes, I am.

Mr. HATCH. Price is undoubtedly a key factor. I hope I have reviewed some of the key data, and I ask if the Senator does agree with me that we should not overemphasize price alone and, so to speak, put all of our eggs into that one price basket?

Mr. ASHCROFT. It is very wise to point that out. I have to say that the studies which the Senator has cited I think make that a compelling conclusion. You have to ignore an overwhelming weight of scientific evidence to persist in the naive notion that there is a straight line in extrapolation of price increase and demand reduction among teenagers.

Mr. HATCH. Would the Senator agree, in my view we can be most successful in meeting our public health goals by coming up with a ''basket'' of antitobacco policies that would include price increases, counteradvertising, public education, enhanced enforcement measures, cessation programs,

and marketing and advertising restrictions that go way beyond what the Constitution would allow us to legislate?

Mr. ASHCROFT. I am aware of the Senator's position in that respect.

I believe if this were truly an antismoking measure for teenagers and that were its real intent, we would have things like making illegal the possession of tobacco in areas where the Federal Government has jurisdiction.

Mr. HATCH. Does the Senator agree we should come up with a comprehensive package of mutually reinforcing policies, that if we come up with a package at all, overreliance on price strategy could be misplaced?

Mr. ASHCROFT. I agree our pricing strategy is potentially very seriously misplaced in this measure.

Mr. HATCH. Is the Senator aware that the Institute of Medicine of the National Academy of Sciences issued a report calling on the nation to take action to reduce tobacco use? Is the Senator aware of that?

Mr. ASHCROFT. I am.

Mr. HATCH. Let me ask the Senator if he is aware of just a few short excerpts from one paragraph of the 36-page report. The focus is on the need for the level of required price increases. ''Raising the prices of tobacco products is a proven way of reducing tobacco use in the short and medium terms. Price hikes encourage the cessation and thwart initiation. Higher prices have the added benefit of reducing use among people not yet addicted to nicotine, including young people whose level of tobacco consumption may be even more sensitive to price. The impact and simplicity of price hikes were the main reason for the 1994 IOM report's first recommendation of a $2 per pack cigarette tax increase.''

Now the paragraph notes that this recommendation is consistent with the Koop-Kessler report and the National Cancer Policy Board, which it notes calls for a $2 price increase before concluding with this following sentence: ''Such a price increase should also have the desired disproportionately greater impact on preventing the initiation of tobacco use among young people.''

Is the Senator aware of that?

Mr. ASHCROFT. I am aware of that particular statement.

Mr. HATCH. Let me ask if the Senator agrees. In fairly categorical language, a price hike in the $2 range is characterized as a ''proven way to cut youth smoking.'' In fact, it almost sounds like the $2 per pack comes right out of a mathematical formula.

The more something costs, the less of it a kid can probably afford. In an era of $150-a-pair Air Jordans, we must allow for the possibility that what kids will do, particularly when social status is involved, can be a tricky, sometimes counterintuitive behavior that can involve a lot more than just sheer price.

Does the Senator agree with me on that?

Mr. ASHCROFT. I definitely agree with the Senator. I think that habits by young people in the marketplace frequently do not reflect traditional economic analysis.

Mr. HATCH. Having set out the 1998 IOM study, I compare its tone and ask the Senator if he agrees with the April 1998 CBO report called ''The Proposed Tobacco Settlement: Issue From a Federal Perspective?''

Now, this CBO paper examines the literature and paints a far murkier picture of the state of evidence than did the IOM study. For example, the first sentence of this section, entitled ''Response of Youth'' states—and I ask the Senator if he is aware of this quote—''In contrast with the consistent responsiveness of adults to changes in price, the evidence on how young people respond is highly variable?''

Mr. ASHCROFT. I am aware of that. It seems to me that it actually confronts, in a very direct way, those other studies that make serious presumptions that are unwarranted.

Mr. HATCH. The Congressional Budget Office report: Is the Senator aware of the Congressional Budget Office report reviewing many of the same studies relied upon in the earlier 1994 Institute of Medicine study, and in the 1994 Surgeon General's report entitled ''Preventing Tobacco Use Among Young People''?

Mr. ASHCROFT. I am aware of it. I think it is very valuable that they have done so.

Mr. HATCH. It is very important to this debate, it seems to me.

Does the Senator agree with me?

Mr. ASHCROFT. It is very important.

Mr. HATCH. It would seem to me that anybody who is intelligently watching this debate would want to consider this. Is that right?

Mr. ASHCROFT. I think the information provided in the CBO is critical to an intelligent decision in this matter.

Mr. HATCH. The CBO catalogued a wide range of elasticity and reports, ''Most findings are on the high side of the range.'' However, the Congressional Budget Office next cites two studies based on the National Health and Nutrition Examination Survey that found elasticities near zero. After summarizing the data for a series of studies, the Congressional Budget Office discussed a Cornell study that employed a longitudinal methodology as opposed to a cross-sectional analysis undertaken by most studies.

It said in the Congressional Budget Office report, ''The participation elasticities that DeCicca and colleagues estimated for each followup were similar to those found in the cross sectional studies. The Congressional Budget Office considered roughly 0.5 to 0.70. However, they found that when children who were already smoking at the time of the first survey in the eighth grade were excluded from the analysis, the effect of price on the probability of starting to smoke by the 12th grade was essentially zero.

Is the Senator aware of that?

Mr. ASHCROFT. I am aware of it.

Mr. HATCH. This study found, after excluding those already smoking in eighth grade, that the effect of price on the probability of starting to smoke by the 12th grade was essentially zero.

The Congressional Budget Office made the following comment with respect to this study: ''Findings should be troubling to those who look forward to a large increase in tobacco prices as a foolproof means of reducing rates of youth smoking. It is possible that existing studies showing high price elasticity among teens and young adults which use similar State level adjusters may have inadequately controlled the effect of the community environment.''

Is the Senator aware of that quote?

Mr. ASHCROFT. I am aware of it.

Mr. HATCH. It is a very important quote. That certainly does not seem to echo the almost unequivocal of some other studies.

To be fair, the Congressional Budget Office concludes that most of the evidence does, in fact, point to a relatively high price elasticity for young adults but concludes this discussion with the cautionary note that all the would-be social engineers, it seems to me, should take to heart. We have plenty of them around here. ''Most of the evidence points to a relatively high total price elasticity of tobacco consumption among teenagers. But those estimates could be exceedingly optimistic. How young people would respond to large changes in the price of cigarettes remains, like many of their behaviors, uncertain.''

Is the Senator aware of that?

Mr. ASHCROFT. I am aware of that CBO conclusion. I think it provides us with a sound basis for questioning what others are assuming, and they are assuming that, I think, at serious peril.

Mr. HATCH. Is the Senator also aware that, unlike the Institute of Medicine, the Congressional Budget Office reads the studies and concludes that the data suggests a level of uncertainty on the price issue?

Mr. ASHCROFT. Yes.

Mr. HATCH. Let's be honest here. There are many uncertainties here. We are talking about tobacco price increases never before contemplated or experienced in our country. But as we listen to this debate, I think it would be wise for all of us to heed the words of caution by the Congressional Budget Office when we hear someone say that all the public health experts agree that price is the single most effective way to cut youth consumption.

Does the Senator agree with me on that statement?

Mr. ASHCROFT. I think is dangerous to say that all the health experts agree, or all statistics agree. I think the Congressional Budget Office study clearly indicates that there are other factors that are very serious that interrupt what would otherwise be economic assumptions and the assumption of addiction itself is a way of saying that ordinary economics don't apply.

Mr. HATCH. If data were unequivocal on the price issue, as some have already argued, or will argue, in this debate, how is it that the Congressional Budget Office—I ask the Senator this—felt compelled to so carefully qualify what some characterize as a near scientific certitude?

Mr. ASHCROFT. My view is that they are self-compelled because they were interested in writing a record which was seriously flawed. The Congressional Budget Office's responsibility is to provide us with the information on the basis of which we can make good decisions, and not seriously flawed information. I think that there is responsibility and an opportunity to improve our potential for good decisionmaking. That is why they would have to challenge those studies which, obviously, would be misleading if not understood in the light of the Congressional Budget Office qualification.

Mr. HATCH. Now, of course, if you were tied down to particular numbers in a budget table or in a bill financing table and neither could justify these numbers so that precisely the preordained amount of revenue comes into the U.S. Treasury, you might be inclined to overplay the public health rationale beyond what is warranted from the actual data. Does the Senator agree with me on that?

Mr. ASHCROFT. Yes, I would. If the President of the United States, for instance, needed a certain amount of money, you might be inclined to find statistics which would provide a basis for generating that amount of money.

Mr. HATCH. I ask the distinguished Senator if he agrees with me that the American people, see if he agrees with me that the American people are not exactly unfamiliar with the sometimes backwards, the end-justifies-the-means, cook-the-books nature of policymaking in Washington.

Mr. ASHCROFT. They are not.

Mr. HATCH. All right. Why do you think the polls are showing that by a decisive 70 percent to 20 percent margin the public thinks the Congress is more interested in the revenue and spending side of this tobacco legislation than we are in the public health component?

Mr. ASHCROFT. Well, for a variety of reasons. I am sure our history is part of that, but part of the reason is that in this bill we are not doing some of the things which could be done to curtail teenage smoking. So it becomes apparent that we are doing things that are not necessary and not doing things that are necessary.

Mr. HATCH. Does the Senator remember back in the late 1980s when the American people made us repeal the catastrophic health insurance legislation, the same public considered and soundly rejected the Rube Goldberg-inspired, Ira Magaziner-designed Clinton health care reform proposal?

Mr. ASHCROFT. We are all well aware of that.

Mr. HATCH. I would submit to you that this is the same public that we can expect to watch us closely as we perform our magic on this particular bill. Does the Senator agree with me with regard to youth smoking?

Mr. ASHCROFT. I think the public is already watching. It is reflected in measurements of the public sentiment when they indicate they believe on about a 70 percent to 30 percent basis that this is a tax and spend, big Government measure rather than a real smoking cessation measure.

Mr. HATCH. Let me just bring to the distinguished Senator's attention that during that same period of smoking decline in Canada, U.S. youth smoking decreased by 40 percent without a price increase. So much for the reasons that price is the only reason for youth smoking decrease. Is the Senator aware of that?

Mr. ASHCROFT. I am aware of that.

Mr. HATCH. I have one final concern with the chart that was used by our distinguished friend from Massachusetts on Canadian tobacco use and price. As I said, that chart ended in 1991. When you look from 1991 on, Canadian imports to our country went up dramatically. Most were smuggled back into Canada and created a huge black market. Does the Senator remember, before the Judiciary Committee, we had the former mayor of Cornwall testify before our committee?

Mr. ASHCROFT. I am aware of that testimony.

Mr. HATCH. And he talked about how the black market came in with all of the accompanying organized crime and criminal activity to the point where his life was threatened, his family's life was threatened, people were shot at, and all kinds of other unsavory criminal practices began. Does the Senator remember that testimony?

Mr. ASHCROFT. I am aware of that testimony, and I thank the Senator for bringing it again to our attention.

Mr. HATCH. Now, the Judiciary Committee—I am sure the Senator is aware of this, too—heard testimony that most of these cigarettes, on that peak, that were imported into the United States were smuggled back into Canada.

Mr. ASHCROFT. They send them out the front door and bring them in the back door.

Mr. HATCH. Sure. They sent them out and brought them back. People are saying there is not going to be any smuggling here, not going to be any black market. They are ignoring hundreds of thousands of police people. They are ignoring the facts that occurred in Canada, England, and almost everywhere else.

Mr. ASHCROFT. They are ignoring the fact that there is a lot of cigarette smuggling in the United States today at current taxation levels. To aggravate that with an additional $1.50 a pack would be to skyrocket the smuggling problem.

Mr. HATCH. Since smugglers do not seek identification or IDs, I suspect youth were able to easily obtain bootleg cigarettes. Keep in mind Mexico's per pack price is 94 cents. Right?

Mr. ASHCROFT. I am aware of that.

Mr. HATCH. Maybe we have never seen the smoking prevalence rates and prices beyond 1991 in the distinguished Senator's chart because smoking rates did not increase when the tax was decreased by the Canadian government.

Now, despite emphatic and passionate pleas, the scientific evidence on the effect of price is equivocal. Does the Senator agree with me on that?

Mr. ASHCROFT. There is ambiguity as to whether or not price is a conclusive determinant for teenagers in their decision to begin to smoke.

Mr. HATCH. Is the Senator aware that today Barry Meier writes a very compelling article in the New York Times. He says:

> But with the Senate having begun debate on Monday on tobacco legislation, many experts warn that such predictions are little more than wild estimates that are raising what may be unreasonable expectations for change in rates of youth smoking.

Is the Senator aware of that comment?

Mr. ASHCROFT. I am aware of that.

Mr. HATCH. Mr. Meier also quotes Mr. Richard Kluger, author of a book on smoking and health, who has said this. I ask the Senator if he is aware of it?

> I think this whole business of trying to prevent kids from smoking being the impetus behind legislation is great politics, but it is nonsense in terms of anything you can put number next to.

Is the Senator aware of that?

Mr. ASHCROFT. I am, I am in possession of the article, and I am grateful for the work of Mr. Meier.

Mr. HATCH. I ask unanimous consent that the entire article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 20, 1998]

POLITICS OF YOUTH SMOKING FUELED BY UNPROVEN DATA

LEGISLATION'S DESIRED EFFECTS DRESS UP AS FACTS

(By Barry Meier)

It is the mantra of the nation's opponents of smoking: sweeping changes in the way cigarettes are marketed and sold over the next decade would stop thousands of teenagers each day from starting the habit and spare a million youngsters from untimely deaths.

President Clinton recently warned, for example, that one million people would die prematurely if Congress did not pass tobacco legislation this year. And Senator John McCain, Republican of Arizona and the author of a $516 billion tobacco bill, has urged lawmakers to stop ''3,000 kids a day from starting this life-threatening addiction.''

But with the Senate having begun debate on Monday on tobacco legislation, many experts warn that such predictions are little more than wild estimates that are raising what may be unreasonable expectations for change in rates of youth smoking.

After the $368.5 billion settlement proposal between tobacco producers and state officials was reached last year, for example, the American Cancer Society said a 60 percent

decrease in youth smoking in coming years could reduce early deaths from diseases like lung cancer by a million. But while many politicians say the legislation would most likely produce a 60 percent drop in youth smoking, that figure appears to have come from projections and targets.

Social issues often spark unfounded claims cloaked in the reason of science. But the debate over smoking, politically packaged around the emotional subject of the health of children, is charged with hyperbole, some experts say. Politicians and policy makers have tossed out dozens of estimates about the impact of various strategies on youth smoking, figures that turn out to be based on projections rather than fact.

''I think this whole business of trying to prevent kids from smoking being the impetus behind legislation is great politics,'' said Richard Kluger, the author of ''Ashes to Ashes'' (Knopf, 1996), a history of the United States' battle over smoking and health. ''But it is nonsense in terms of anything that you can put numbers next to.''

Everyone in the tobacco debate agrees that reducing youth smoking would have major benefits because nearly all long-term smokers start as teen-agers. But few studies have analyzed how steps like price increases and advertising bans affect youth-smoking. And those have often produced contradictory results.

Consider the issue of cigarette pricing. In recent Congressional testimony, Lawrence H. Summers, the Deputy Treasury Secretary, cited studies saying that every 10 percent increase in the price of a pack of cigarettes would produce up to a 7 percent reduction in the number of children who smoke. Those studies argue that such a drop would occur because children are far more sensitive to price increases than adults.

''The best way to combat youth smoking is to raise the price,'' Mr. Summers said.

But a recent study by researchers at Cornell University came to a far different conclusion, including a finding that the types of studies cited by Mr. Summers may be based on a faulty assumption.

Donald Kenkel, an associate professor of policy analysis and management at Cornell, said earlier studies tried to draw national patterns by correlating youth smoking rates and cigarette prices in various states at a given time.

But in the Cornell study, which looked at youth smoking rates and cigarette prices over a period of years, researchers found that price had little effect. For example, the study found that states that increased tobacco taxes did not have significantly fewer children who started smoking compared with states that raised taxes at a slower rate or not at all.

Mr. Kenkel added that he had no idea how the price increase being considered by Congress—$1.10 per pack or more—would affect smoking rates because the price of cigarettes, now about $2 a pack, has never jumped so much. And he added that there were so few studies on youth smoking rates and price that any estimate was a guess.

''It is very difficult to do good policy analysis when the research basis is as thin and variable as this,'' Mr. Kenkel said.

Jonathan Gruber, a Treasury Department official, said that the Cornell study had its own methodological flaws and that the earlier findings about prices supported the department's position. He also pointed out that Canada doubled cigarette prices from 1981 to 1991 and saw youth smoking rates fall by half.

Under the tobacco legislation being considered in the United States, cigarette prices would increase by about 50 percent. And while advocates of the legislation say that the increase would reduce youth smoking by 30 percent over the next decade, they say that an additional 30 percent reduction would come through companion measures like advertising restrictions and more penalties for store owners who sold cigarettes to under-age smokers and for youngsters who bought them.

The claim that comprehensive tobacco legislation would reduce youth smoking by 60 percent over the next decade is perhaps that most frequently cited number by advocates of such bills. But that figure first emerged last year in a different context and quickly came under attack.

The American Cancer Society, soon after the settlement plan was reached in June between the tobacco industry and 40 state attorneys general, said that one goal of that agreement—a 60 percent decline in youth smoking rates over the next decade—would spare one million children from early deaths from smoking related diseases. The plan, which recently collapsed, would have raised cigarette prices by about 62 cents over a decade and banned certain types of tobacco advertising and promotional campaigns.

But some tobacco opponents soon found fault with the cancer society's estimates. For one, those critics pointed out that the 60 percent figure represented only a target, and that penalties would be imposed on tobacco companies if it were not reached. And the cancer society, they added, had not performed any analysis of the June deal to determine whether in youth smoking.

''They basically made up the number and I think it was totally irresponsible of them,'' said Dr. Stanton Glantz, a professor of medicine at the University of California at San Francisco. ''It is like assuming that by snapping our fingers we could make breast cancer go away.''

In a letter to Dr. Glantz, Dr. Michael Thun, the cancer society's vice president for epidemiology and surveillance research, acknowledged that the group's statement was based on an ''if-then'' projection, rather than an analysis of whether the proposal's programs would accomplish that goal.

''The way the number was derived has nothing to do with what will effectively get us there,'' Dr. Thun said in a recent interview.

The new 60 percent estimate is based on a different formulation. But it, like the cancer society statistic, also coincides with a target for reducing youth smoking that would result in industry penalties if not reached. And along with questioning the impact of price on reaching such a goal, experts are at odds over whether advertising bans and sales restrictions would produce the projected 30 percent drop in youth smoking.

In California, for example, youth smoking began to decline in the early 1990's soon after the state began one of the most aggressive anti-smoking campaigns in the country. But it has begun to rise again in recent years.

Dr. John Pierce, a professor of cancer prevention at the University of California at San Diego, said he thought that reversal might reflect the ability of cigarette makers to alter their promotional strategies to keep tobacco attractive to teen-agers even as regulators try to block them.

For their part, cigarette makers, whose internal documents suggest a significant impact on youth smoking from price increases, appear happy to play both sides of the statistical fence. Last year, they estimated that the price increase in the June plan would cause sales to drop by nearly 43 percent among all smokers over a decade. But now that Congress is considering raising prices by twice that much, producers have turned around and said that higher prices would undermine, rather than help, efforts to reduce youth smoking.

Steven Duchesne, an industry spokesman, said tobacco companies thought that high cigarette prices would encourage those in the black market to target teen-agers.

''Smugglers would sell cigarettes out of the back of trucks without checking ID's,'' Mr. Duchesne said.

Experts agree that unless significant changes are made in areas like price and advertising, youth smoking rates will not decline. But unlike politicians, many of them are unwilling to make predictions. Instead, they say that the passage of tobacco legislation would guarantee only one thing: the start of a vast social experiment whose outcome is by no means clear.

Mr. ASHCROFT. I am pleased to forward the article to the desk and ask for its inclusion in the RECORD.

Mr. HATCH. Let me ask the Senator, if he will, using another chart, our colleague argued last night that the 1993 American price decrease led to more youth smoking. I would call my colleague's attention to the fact that in at least 1 year both price and youth smoking decreased. Later, there was a dramatic increase in youth smoking without a proportional price increase. These facts provide further evidence that price is not the only determinant of smoking behavior as some would lead us to believe. Is the Senator aware of that?

Mr. ASHCROFT. I am aware of it, and I am convinced that price is not the only determinant.

Mr. HATCH. Now, tobacco analyst Martin Feldman, who actually did the economics on this based upon an extensive model, unlike the Treasury Department, who was willing to testify and face cross-examination before the Judiciary Committee, testified before the Judiciary Committee, and I believe the Senator is aware of this, that between 1986 and 1996, the real price of cigarettes in the United Kingdom, rose by 26 percent and national cigarette consumption fell 17 percent.

Is the Senator aware that youth smoking did not decrease during that same time?

Mr. ASHCROFT. I think that data is very instructive. It tells us something about the fact that the youth culture is not always predictable in terms of traditional economics, that the price may not be the determinant of whether individuals begin smoking as young people.

Mr. HATCH. Is the Senator aware that actually the British Office for National Statistics reported that the percentage of smokers amongst those 11 to 16 increased by 8 percent despite the healthy price increase?

Mr. ASHCROFT. I am pleased that you would bring that to my awareness.

Mr. HATCH. Our colleague from Massachusetts, for whom I have the greatest respect, would lead us to believe that all public health experts advocate a $1.50 price increase to reduce teen smoking. There has never been a U.S. price increase of this magnitude.

Mr. ASHCROFT. I am aware of the fact that this would be a totally unique circumstance never before——

Mr. HATCH. Keep in mid it is a lot more than just a $1.50. That is just the

manufacturer's price. You go on up from there?

Mr. ASHCROFT. It would probably be something in the neighborhood of closer to over $3 in terms of the increase in the price of cigarettes.

Mr. HATCH. Is the Senator aware of the approach that I have been trying to take toward this, that we believe it should be a payment schedule. There would still be excise taxes. We think it should be a payment schedule that the tobacco companies meet regardless of how their profits go, up or down. Is the Senator aware of that?

Mr. ASHCROFT. I am aware of the Senator's position in that regard.

Mr. HATCH. So the payment would not be affected by whether the excise taxes go up or down. The payments would have to be made over a number of years, all $428 billion of them, which is $60 billion more than in the settlement. Is the Senator aware of this, $60 billion more than the attorneys general, Castano group, et cetera, and tobacco companies' agreement back on June 20, 1997? Is the Senator aware of it?

Mr. ASHCROFT. I am aware of the Senator's intention in that respect.

Mr. HATCH. So it is a stiff increase in penalty, but at least it is at a level where perhaps we can get the companies to come back on board and at least voluntarily agree to the advertising protocols, consent protocols, and voluntarily agree to the look-back provisions and make them, thus, constitutional.

Mr. ASHCROFT. I understand the Senator's position.

Mr. HATCH. You understand my position on that?

In 1996—is the Senator aware in 1996 Secretary Shalala estimated that the 1996 FDA rule would reduce smoking by 50 percent over 7 years? Guess what? There was no price increase in that regulation.

> Secretary Shalala used the word ''historic''—this is the most important public health initiative in a generation. It ranks with everything from polio to penicillin. I mean, this is huge in terms of its impact. Out goal is very straightforward; to reduce the amount of teenage smoking in the United States by half over the next 7 years.

Are you aware of that statement by our Secretary, our esteemed Secretary?

Mr. ASHCROFT. I am aware of that statement.

Mr. HATCH. Well, there was no price increase in that recognition. How, we are being led to believe that price is the answer. It goes further. David Kesler said this:

> Don't let the simplicity of these proposals fool you. If all elements of the antismoking package come into play together, change could be felt within a single generation, and we could see nicotine addiction go the way of small pox and polio.

Are you aware of that statement by the former——

Mr. ASHCROFT. I am aware of the statement of Dr. Kessler.

Mr. HATCH. Former head of the FDA? Here is one by President Clinton:

> That's why a year ago I worked with the FDA, and we launched this nationwide effort to protect our children from the dangers of tobacco by reducing access to tobacco products, by preventing companies from advertising to our children. The purpose of the FDA rule was to reduce youth smoking by 50 percent within 7 years.

That was President Clinton's statement. Is the Senator aware of that?

Mr. ASHCROFT. Indeed it was.

Mr. HATCH. I think the point I am making here is no matter what we do here will be a price increase. The question is, How far can you increase it without it being counterproductive and producing an overwhelming black market in contraband all over our country. Is the Senator as concerned about that as I am?

Mr. ASHCROFT. I am deeply concerned about the creation of a black market which not only destabilizes any of the intentions of this bill, but probably would make cigarettes far more available to young people than they are in society today.

Mr. HATCH. I appreciate the Senator's comments. These quotes by Donna Shalala, by David Kessler, by the President of the United States, with regard to the FDA regulation supposedly going to reduce teen smoking by 50 percent over 7 years—guess what, there was no price increase in that regulation. Now we are led to believe that price increases are the sole answer—at least by the arguments made by the other side on this issue.

Is the Senator aware—let me just examine another factor and see if he is aware of that. We are being told the Senate's inaction on a $1.50 price increase over the next 3 years will culminate in children dying. Is the Senator aware of that argument.

Mr. ASHCROFT. I am aware of that argument.

Mr. HATCH. It seems to have been made here regularly. If that is the case, why, then, did the President of the United States advocate for a price increase of up to $1.50 over 10 years? What does our colleague from Massachusetts know that the President didn't know?

Mr. ASHCROFT. I am not in a position to answer that question. I think the question is a very good question, but it would have to be addressed to the Senator from Massachusetts.

Mr. HATCH. Let me just say this, and ask this question. You know, the very people who are arguing for this $1.50 increase, it seems to me, are the very people who are pricing this bill right out of the marketplace so we cannot get a constitutionally sound bill. Is the Senator aware of that?

Mr. ASHCROFT. I believe that they have increased this, the cost of this bill, by hundreds of billions of dollars.

Mr. HATCH. We have had witnesses from the left and the right, constitutional experts, come before our committee and say that, basically, without a voluntary consent protocol or a voluntary consent decree with the companies on board, that literally—literally, you could not have the advertising restrictions.

Mr. ASHCROFT. I think it is pretty clear that the infringement of the first amendment that has been applied by the highest courts to commercial speech as well as speech by ordinary citizens would be substantial were it not to have the complicity of those affected.

Mr. HATCH. Was not the Senator there in those Judiciary Committee hearings when these experts on constitutional law from the left to the right said this bill would not be constitutional, would be highly suspect.

Mr. ASHCROFT. I am aware of that.

Mr. HATCH. Unconstitutional both on the advertising restrictions, which of course that is what the FDA regulations call for, and on the look-back provisions? Just to mention two.

Mr. ASHCROFT. I am very well aware of the serious constitutional problems of this proposed measure, which would be intensified, absent the agreement of the companies themselves.

Mr. HATCH. Does the Senator remember Floyd Abrams, leading first amendment expert in this country, in my opinion and I think in the opinion of most people, from the left to the right, in his statement:

> Any legislation of Congress which would purport to do by law what the proposed settlement would do by agreement, in terms restricting constitutionally protected commercial speech, is, in my estimation, destined to be held unconstitutional? It is unlikely that at the end of the day the FDA's proposed regulations could survive first amendment scrutiny.

Does the Senator remember that?

Mr. ASHCROFT. I am aware of that statement before the committee.

Mr. HATCH. Is the Senator aware that the American Civil Liberties Union, speaking to the Senate Judiciary Committee, February 20, 1998, had this to say:

> Both the legislation and proposed regulation by the Food and Drug Administration are wholly unprecedented and, if enacted, will most likely fail to withstand constitutional challenges.

Mr. ASHCROFT. I am.

Mr. HATCH. Is the Senator aware that Judge Robert Bork said on January 16, 1996:

> The recent proposal of the FDA to restrict severely the first amendment rights of American companies and individuals who in one way or another have any connection with tobacco products is patently unconstitutional under the Supreme Court's current doctrine concerning commercial speech, as well as under the original understanding of the first amendment.

Mr. ASHCROFT. I am aware of that. That is why I mentioned the commercial speech reservations that I had earlier.

Mr. HATCH. Isn't it a wonderful thing that the commerce bill, or should I say the managers' amendment, has done that which nobody else has ever been able to do in the history of this country; that is, bring together the ACLU and Robert Bork on this issue.

Mr. ASHCROFT. That, indeed, is an amazing feat.

Mr. HATCH. It really is. But we also had testimony from Larry Tribe, on the left, who also basically said this would be very constitutionally suspect. Now, to make a long story short, the very people who are arguing—I will ask the Senator this. Aren't the very people who are arguing for this $1.50 increase the people who have basically blown the tobacco companies out of the equation so that you cannot get the voluntary consent decrees to make these matters constitutional so that this will work, not just from a price increase standpoint but from an advertising restrictions standpoint, and from a look-back provision standpoint?

Mr. ASHCROFT. I think it is pretty clear they have boosted, or seek to boost the kind of financial impact to a very serious—hundreds of billions of dollars—extent.

My objection is that this is all passed on to low-income people, consumers. Obviously there are other impacts as well. Obviously it affects the ability of companies to participate in this kind of settlement.

Mr. HATCH. Is the Senator aware of, similarly, last week we heard testimony on this issue. I asked Professor Burt Neuborne of the NYU law school specifically if he thought the FDA rules could pass constitutional muster. I have to say, he was one of the most impressive constitutional experts I have had in my 22 years of listening to constitutional law from experts on the Judiciary Committee. In asking him a question, I pointed out that earlier in the hearing that Mr. David Ogden, counsel to the Attorney General, testified that the FDA rules were narrowly tailored and could satisfy the leading cases in the area of commercial free speech, the Supreme Court's decision in 44 Liquormart, and the Scenic Hudson cases.

So I asked Professor Neuborne whether the FDA rules were narrowly tailored, as required by current Supreme Court doctrine. I want to see if the Senator remembers what he said.

He said:

> I could start by semantics. Mr. Ogden of the Justice Department used the word ''appropriately tailored.'' He is too good a lawyer to use the words ''narrowly tailored'' because the FDA rules are not narrowly tailored. The FDA rules take the position that all color, all figures, all human beings are inherently attractive to children in a way that causes them to smoke.

Is the Senator aware of that?

Mr. ASHCROFT. I am aware of that. I think it is a profound insight and it absolutely represents good legal analysis.

Mr. HATCH. He went on to say:

> But its not a narrowly tailored response to say that all use of color, all use of human figures, all use of imagery is banned so that adults can't see them either, and I don't think that could be reasonably defended.

Do you remember that?

Mr. ASHCROFT. I am aware of that statement and I happen to agree that there is a very serious constitutional problem with this kind of limitation, even of commercial speech.

Mr. HATCH. He is not alone. I venture to say that any constitutional expert who tries to contradict what these gentlemen have said is going to be in severe jeopardy of losing his or her reputation.

Is the Senator aware that this whole push to raise the cost, to pile on, that basically knocks the tobacco companies out of the equation, to pile on—which is what is happening in this bill and what certainly would be extended by the amendment of the distinguished Senator from Massachusetts—that that basically knocks the tobacco companies out?

Mr. ASHCROFT. I am not in a position to say whether or not what the tobacco companies could do.

Mr. HATCH. They have said——

Mr. ASHCROFT. They have indicated clearly that the additions and the aggravations and the different kinds of changes that have been made have made it impossible for them to continue in their support of the measure.

Mr. HATCH. There is no doubt in my mind that they are not going to continue unless we get this into some reasonable posture. Is the Senator aware that many people lost their breath when they first heard of $368.5 billion as the settlement figure given last June 20 by the attorneys general, the Castano group and the tobacco companies? They were astounded. Is the Senator aware of that?

Mr. ASHCROFT. I am aware of it, and if the people lost their breath thinking this was to be paid by the tobacco companies, they will really lose their breath when they understand these costs are mandated by the statute to be passed on to consumers.

Mr. HATCH. I think the Senator is aware, is he not, that there has to be a way to pay for the program? If you don't have the voluntary consent of the companies, albeit kicking and screaming, then how do you make the bill constitutional in the end? Is the Senator aware of that?

Mr. ASHCROFT. I am aware of the Senator's position.

Mr. HATCH. Is the Senator aware of another position this Senator has, and I think many others as well, and that is that if this bill passes in its current form and is not constitutional, that there will be at least 10 years of effective litigation by the tobacco companies who are not going to allow them to climb all over them, especially when they know these provisions are unconstitutional? Is the Senator aware of that?

Mr. ASHCROFT. I am aware of that, and during that period of time, the poor people, the working-class people of the United States are going to have a very, very serious tax increase as a result of this kind of greed expressed here.

Mr. HATCH. Is the Senator aware that we have 3,000 kids beginning smoking every day and 1,000 will die a premature death?

Mr. ASHCROFT. I am aware that 3,000 children try smoking every day. I am also aware there are about 8,000 children, according to General McCaffrey, who try drugs every day. I am concerned we do not have a so-called solution here that really shoves people even more into the drug category.

Mr. HATCH. Is the Senator aware that if a young teenager smokes, there is an 8 times propensity to graduate to marijuana, and if that teenager then graduates to marijuana, there is a greater propensity to graduate to harder drugs?

Mr. ASHCROFT. I am aware of linkages that have been drawn between marijuana smoking and hard drugs.

Mr. HATCH. So if this price increases that we are talking about here, way above the $368.5 billion, do not bring the tobacco companies on board—and the tobacco companies say they are not going to come on board—then, basically, we are going to have 10 years of constitutional litigation where approximately 1 million children a year will start a habit later leading to their premature death because we failed to act properly in this matter. Is the Senator aware of that?

Mr. ASHCROFT. I am aware of the fact that the absence of the tobacco companies in any final resolution would result in very serious litigation which would involve serious delays.

Mr. HATCH. Is the Senator aware that I have fought the tobacco industry my whole Senate career, and I take second place to nobody as far as trying to get this matter under control?

Mr. ASHCROFT. Indeed, I am.

Mr. HATCH. Is the Senator aware that on one occasion, I was accused—I won't say by whom—of being a pawn for the tobacco companies, because I want to see this thing work and get it done?

Mr. ASHCROFT. There are a number of incredible things that have been said about the Senator, and I think that is one of them.

Mr. HATCH. Well, it was very offensive to me. If we don't work this out so that the parties agree in a consent decree, then we are going to have years of litigation where even more people will die from smoking-related diseases and millions of kids will be hooked on cigarettes.

In 1996, as I said, and I ask the Senator if he remembers this, Secretary Shalala estimated that the 1996 FDA rule would reduce smoking by 50 percent over 7 years. David Kessler said it. The President believes that. There was no price increase involved in that, just the rule. But that rule will not be in effect if we don't have a voluntary consent decree.

And, I might add, there are those who believe that rule shouldn't be in effect under current FDA law, the way it is currently written.

Let me ask the Senator to consider another fact. We are being told that

the Senate's inaction on a $1.50 price increase over the next 3 years will result in children dying. If that is the case, then why did the President of the United States advocate for a price increase of up to $1.50 but over 10 years? Is the Senator aware that Surgeon General Satcher, our Nation's doctor, did not call for a $1.50 price increase?

Mr. ASHCROFT. I am pleased to be made aware of that by the Senator from Utah.

Mr. HATCH. Rather, he echoed the President's position. He referred to prices as one of the most cost-effective, short-term strategies to reduce youth smoking. Will the Senator help me to understand their failure to be advocates, if the evidence is, as our colleague from Massachusetts said, ''overwhelming and powerful''? More recently, my colleague and I attended a Judiciary Committee hearing to determine if it is possible to design a plan to keep kids from smoking. Is the Senator aware of this? Dr. Greg Connally, head of the Massachusetts drug control program, testified that the remarkable success of the Massachusetts program in reducing by 30 percent cigarette consumption in the 18- to 24-year-olds was because of the clean air indoor legislation and advertising. Is the Senator aware of that?

Mr. ASHCROFT. I am aware of it, and that is why I think it is unnecessary to massively burden working Americans with an oppressive tax in order to achieve what State and local entities are doing without this kind of imposition on working people of America.

Mr. HATCH. That came right out of Massachusetts.

Mr. KENNEDY. Will the Senator yield on that point?

Mr. HATCH. Let me finish this line of thought, and I will be happy to yield.

Mr. ASHCROFT. I reassert my right to the floor, and I will be happy to yield for another question, but I have yielded to the Senator from Utah and the floor is not his to yield.

The PRESIDING OFFICER. The Senator from Missouri controls the floor.

Mr. ASHCROFT. I yield to the Senator from Utah.

Mr. HATCH. Let's look more closely at the 1994 IOM study which is the basis of the 1998 IOM study. A fair reading of this 1994 IOM study seems far less definitive than is being portrayed by some in this debate.

On page 187 of the 1994 Institute of Medicine study, it says:

> Only a few studies have examined the question of whether cigarette price increases affect teenagers differently than adults.

It then reviewed the only three studies done to that point in the United States. It found relatively high price elasticities in two of these studies but noted that the third study, the second National Health and Nutrition Examination Survey, ''failed to find a statistically significant effect of cigarette prices on cigarette smoking in youths age 12 through 17.'' Is the Senator aware of that?

Mr. ASHCROFT. I am aware of it, and I am pleased to have you remind us all of the information in these studies.

Mr. HATCH. So the data that is not so categorical as being portrayed by the proponents of this amendment. In fact, the 1994 IOM report noted the conflict, not the consensus, in the data. It noted that that requires further study.

On page 188 of the IOM study, it says this:

> The conflicting results of the few U.S. studies have examined the impact of cigarette prices on consumption by adolescents, including possible substitution of smokeless tobacco products in response to higher cigarette prices, reinforce the need for new research to assess the potential for using higher tobacco taxes to deter adolescent tobacco use.

Is the Senator aware of that?

Mr. ASHCROFT. It is clear that the studies are conflicting. Some of the assumptions which have been purported by others to be universal simply are not universal and are not supportable when they are alleged to be universal.

Mr. HATCH. Is the Senator aware that in a recent peer-reviewed article in the Journal of the American Medical Association, the authors conclude that price increases have limited value? Is the Senator aware of that?

Mr. ASHCROFT. I am pleased to be aware of it and thank the Senator for bringing it to the attention of the Senate.

Mr. HATCH. Since the tobacco companies cut their prices to wipe out the tax increases, these public health scientists attributed the success of the tobacco control program in Massachusetts to other components of the comprehensive program. Is the Senator aware of that?

Mr. ASHCROFT. Yes, I am.

Mr. HATCH. In the same hearing, Dr. William Roper, who is Dean of the University of North Carolina School of Public Health, called for a significant price increase but failed to recommend an amount. Is the Senator aware of that?

Mr. ASHCROFT. I am.

Mr. HATCH. Dr. Michael Fiore, director of the University of Wisconsin School of Medicine Center for Tobacco Research and Prevention and Chair of the Agency for Health Care Policy and Research clinical practice guideline panel on smoking cessation testified that one of the most effective ways to reduce youth smoking is to focus on the current adult smokers. He never mentioned a price increase to reduce youth smoking. Is the Senator aware of that?

Mr. ASHCROFT. I am aware of it.

Mr. HATCH. We all know teenage behavior is at best unpredictable. Dr. Warner of the University of Michigan estimated that the 1983 doubling of the Federal excise tax would decrease the number of teenage smokers by 800,000. This estimate fell short by one-fourth. This overzealous estimate should give all of us pause in stepping into the unchartered waters of a $1.50 price increase.

We should not lead our mothers in this society to believe that if we raise the price of cigarettes by $1.50, their children will not smoke. Is the Senator aware of that?

Mr. ASHCROFT. I agree with that. We should not mislead parents. I would firmly underscore the idea that the single, most important factor in whether or not young people smoke is the extent to which their parents are active in helping them not to smoke.

Mr. HATCH. I tell my colleagues, I am just about through with my questions for now. I will have many, many more later on other aspects of this bill. But I wanted to get these points across. I really appreciate the courtesy of my colleague and his forbearance in being willing to answer all these questions.

The main point is, there cannot be clear and unequivocal support for a price increase of $1.50. I have never seen a price increase of that magnitude. That has never been done.

Dr. Chaloupka also writes that less educated persons are less price responsive. An American adult, who is a one-pack-a-day smoker would face a $547 increase. The Senator has been making that case, I believe. Is that correct?

Mr. ASHCROFT. Yes. I believe a one-pack-a-day habit in participating in smoking would cost an additional $547—if you had three packs a day, it takes you to about $1,600. Money that is taken from the family. It does not matter how much the family makes. It could be very low income. Most smokers tend to be in the low-income areas. So it is a very, very aggressive tax on low-income America.

Mr. HATCH. This tax increase would take away more than 5 percent of the income of an American making $10,000 a year. Is that correct?

Mr. ASHCROFT. In some cases that is the kind of bite it would take out of their ability to buy food, shelter, and clothing to provide for their families.

Mr. HATCH. Is it not correct, I ask my colleague from Missouri, who has been making very important points here during this debate, is it correct that currently smokers with incomes under $30,000 pay almost 50 percent of the tobacco excise tax?

Mr. ASHCROFT. Well, right here under the new plan it is projected to almost 60 percent.

Mr. HATCH. Right. If this $1.50 goes through, it will be probably that high. And even at $1.10, it would be approaching 60 percent; is that correct?

Mr. ASHCROFT. That is correct.

Mr. HATCH. Well, I am disappointed that some of my colleagues on the other side of the aisle are so ready to support a new tax-and-spend program supposedly aimed at children but weighing so heavily on the backs of addicted, low-income adult workers under the guise that they are helping children.

Does the Senator agree with me on that?

Mr. ASHCROFT. I do.

Mr. KERRY. Will the Senator yield?

Mr. HATCH. I will take only a few more minutes.

While I agree—I will make this clear—that a price increase is an important component of a comprehensive program, the reason I have gone through all this is there is no clear and convincing evidence of what that amount should be.

Let us be honest, the CBO found there is uncertainty and the price rise is not foolproof.

Do you agree with that?

Mr. ASHCROFT. I do agree that a price rise is certainly not a foolproof strategy for reducing teen smoking. There are ways to reduce teen smoking, and a number of them are not included in this legislation.

Mr. HATCH. I would just like to ask my friend maybe one or two more questions.

If we have to have a tobacco settlement, would it not be much better to force the tobacco companies to come back on board so we can resolve the constitutional issues and have voluntary consent protocols so we can actually reduce youth smoking?

Mr. ASHCROFT. My view is we should target to do things we can actually do to reduce teen smoking, and we have to do it in a way that is not an oppressive tax burden on hard-working families, especially low-income families in America.

The proposal to raise this tax to $1.50, the proposal to have it at $1.10 is an unacceptable incursion into the ability of families to provide for themselves. That is why I oppose this $1.10 pass-through tax on American consumers, particularly low-income individuals.

Mr. HATCH. Is the Senator aware that this Senator, the chairman of the Judiciary Committee, has spent an extensive amount of time studying this issue, trying to come up with a way that you can punish the tobacco companies while getting their consent to the advertising restrictions, so they have to live up to the deal?

Mr. ASHCROFT. I am fully aware of the Senator's efforts in this respect and say he is to be commended for working so hard as he has. I know of no other individual who has dedicated himself more thoroughly to the attempt to resolve these issues than the Senator from Utah as the chairman of the Judiciary Committee.

Mr. HATCH. Is the Senator aware of the Senator from Utah's long-term antipathy toward this industry?

Mr. ASHCROFT. Indeed I am. Everyone is aware of that. We could submit that for the RECORD for which people could take judicial note.

Mr. HATCH. Is the Senator aware of how hard the Senator from Utah studied just exactly what would be the highest amount we could charge and still keep the tobacco companies—yes, kicking and screaming and fighting, and say they are gouged—on board to get these voluntary consent protocols so we can make this matter constitutional?

Mr. ASHCROFT. I think it is pretty clear we can often find how hard someone has worked and studied by the nature of the questions they have asked. The nature of the questions you have asked is such that everyone can know that you have done perhaps as much work as anyone could possibly do in examining these issues.

Mr. HATCH. Is the Senator aware——

Mr. KERRY. Will the Senator yield for an administrative question?

Mr. HATCH. I have one or two questions.

Mr. KERRY. It is not up to the Senator from Utah to make that decision.

The PRESIDING OFFICER (Mr. BURNS). Will the Senator respond?

Mr. HATCH. Will the Senator yield further to me?

Mr. ASHCROFT. I will not yield for a different set of questions at this time. I am yielding to the Senator from Utah at this time.

Mr. KERRY. I thank the Chair.

Mr. HATCH. I would be happy to—I do not think the Senator from Utah is abusing the rules. I think I have the privilege to ask all the questions I can. I think these have been intelligent questions. I think they have been right on point. I think they hopefully will help to elucidate what we need to know.

Mr. KERRY. The Senator is not entitled to make a statement.

Mr. HATCH. Does the Senator agree with my last statement?

Mr. ASHCROFT. Yes, I do.

Mr. HATCH. Now——

Mr. KERRY. Mr. President, could I ask one administrative question of the Senator from Missouri?

The PRESIDING OFFICER. Will the Senator from Missouri yield for a question?

Mr. ASHCROFT. The Senator from Missouri will yield for an administrative question on the presumption and understanding that I retain the floor after the question has been asked.

The PRESIDING OFFICER. The Senator will not lose the floor upon responding to the question.

Mr. KERRY. Mr. President, I will not assert this, but ask the Senator from Missouri if he is aware that under the rules of the Senate, and under precedence of the Senate, a Senator may yield for a question, a Senator may not yield for a statement in the guise of a question, and a Senator may not yield for a question proceeded by or followed by a statement. And that under rule 194 of the Senate, either by request of the Senator or by decision of the Chair, a Senator may be asked, in fact, to give up his right to the floor and take his seat if that rule is violated? Is the Senator aware of that?

Mr. ASHCROFT. I am aware of that.

Mr. KERRY. I thank the Chair.

Mr. HATCH. Will the Senator yield?

Mr. ASHCROFT. I am pleased to yield to the Senator from Utah for a question and thank him for his questions. I appreciate the way in which he has framed these questions. I think it has been very productive and helpful in this debate.

Mr. HATCH. I thank the Senator for his leadership on the floor in pointing out the problems that exist with regard to this ''piling on'' mentality. Is the Senator aware that we did it in the catastrophic bill, and we all lost that?

Mr. ASHCROFT. I am aware of that.

Mr. HATCH. I have no doubt that if the managers' amendment of $1.10 goes through—does the Senator have any doubt that if a managers' amendment of $1.10 goes though, let alone $1.50, that we will wind up with another similar process and problems on our hands?

Mr. ASHCROFT. I think we have a major problem on our hands. I am not concerned about piling on the companies—I am concerned about piling on the consumers, or piling on the poor people of America a tax burden which they should not be asked to carry for reasons which I think are inadequate to justify.

Mr. HATCH. I agree with the Senator and ask a final question. I apologize to my colleagues for taking this time. As everybody knows, I don't take an awful lot of time on the floor. If we are going to resolve this matter, it seems to me, and I wonder if the Senator would agree with me, that we have to take into consideration the approximately 50 million users of tobacco products in this society, many of whom are hooked on these products, or at least addicted to them; we have to consider the children; we have to consider using this money for tobacco-related purposes to the utmost extent that we can.

Would the Senator agree with me on those?

Mr. ASHCROFT. I agree we have to do what we can to appropriately use what resources we can to reduce teen smoking.

Mr. HATCH. I am concerned about what is going on on the floor right now. I am concerned about the managers' amendment. I am concerned about it ever really working, and I imagine the Senator—and this is a question—is as concerned as I am.

Mr. ASHCROFT. I am deeply concerned, particularly about the impact of these massive taxes on low-income families and there ability to make ends meet and maintain their independence.

Mr. HATCH. Despite what Michael Douglas said in the popular movie ''Wall Street,'' greed is not good, and it is especially onerous and burdensome when the greed comes from Congress itself.

Would the Senator agree with me on that?

Mr. ASHCROFT. I agree that greed is not good, and it is particularly repugnant when it is Government asking for more and more from people who can afford it less and less. I think that is what we have here—those who are asking for more and more from consumers who can afford less and less.

Mr. HATCH. I want to personally compliment the Senator for his work on the floor. I know he has taken a lot of time and has had to give up his office work and a lot of other things to be able to join in this colloquy, but this is important. I believe his colloquy is important if we want to understand both sides of this issue on the $1.50. I want to compliment the Senator for being willing to have the fortitude, the dedication, and the drive to stand here and do this.

I apologize to the rest of my colleagues for having taken as long as I have to ask these questions, but I think every question has been pertinent and to the point and every question has tried to enlighten, and that is what questions are for. That is why the rules provide for it.

I thank my colleague for allowing me to do this.

Mr. ASHCROFT. I am pleased to have had the opportunity to answer the questions. I indicated the nature of the questions has been a very specific, particularly questions regarding a variety of studies. These studies have challenged the fallacious assumption that there is an automatic streamline correlation between price increase and potential for reducing smoking, especially among young people, and the clear indication on the part of the Senator from Utah, through his questions, of the amount of study, efforts, investigation, and analysis in which he has engaged is the kind of analysis, investigation, study, and questioning that will refine our ability to make the right decision here.

(Earlier the following occurred and, by unanimous consent, was ordered to be printed at this point in the RECORD.)

Mr. MCCAIN. Mr. President, I ask the Senator to yield for a minute so I can make an administrative announcement. it has nothing to do with the issue at hand; it is so that we can provide courtesy to other Members.

Mr. ASHCROFT. Mr. President, I am please to yield, with this understanding: I ask unanimous consent that at the conclusion of the remarks of the manager of the bill, I be allowed again to speak and have my position on the floor.

Mr. CONRAD. Mr. President, reserving the right to object.

Mr. MCCAIN. Let me just do this first.

Mr. CONRAD. Reserving the right to object, let me understand this. The Senator from Missouri is asking that at the end of the managers' remarks he be recognized?

Mr. ASHCROFT. I will yield only in a way that does not forfeit my right to the floor.

The PRESIDING OFFICER (Mr. HUTCHINSON). Is there objection?

Mr. CONRAD. I won't object.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, the reason I interrupt is that many Members were laboring under the correct impression that we were probably going to have a vote about now on a tabling motion. Obviously, because of the extent of the debate and the desire of both sides to speak, we will not have the tabling motion at this time. I will do so after it appears that most Members on both sides have had an opportunity to talk about the issue. I think the Senator from Massachusetts agrees that we would not want to have a tabling motion since the other side has not had an opportunity to speak.

Mr. HATCH. Will the Senator yield?

Mr. MCCAIN. Can I finish speaking? Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Missouri has yielded to the manager of the bill and then, by unanimous consent, he will resume recognition.

Mr. MCCAIN. Mr. President, I believe the unanimous consent agreement ends when I complete my remarks; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. MCCAIN. Mr. President, I ask the indulgence of the Senator from Missouri and the Senator from Utah until I finish my remarks. I think that is a fairly common courtesy that is extended around here.

We intend to have a tabling motion on both the Ashcroft second-degree amendment and on the underlying Kennedy amendment, and I would guess probably within a couple of hours we will be able to finish the discussion on this side and have ample time to respond on that side. For the benefit of my colleagues, I am trying to make this process as convenient as I can for every Member of the Senate so that they can anticipate and adjust their schedules accordingly. I have now completed my remarks.

Mr. HATCH. Mr. President, I ask unanimous consent that the remarks of the distinguished Senator from Arizona not interrupt our questions and remarks.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the remarks of the Senator from Arizona not interrupt the questions of the Senator from Utah in the RECORD.

I am pleased to yield to the Senator from Utah for a question.

The PRESIDING OFFICER. Without object, it is so ordered.

Mr. HATCH. We were going through this CBO report. I apologize to the distinguished Senator from Arizona for irritating him. I thought he had finished his remarks. I always intend to extend courtesy throughout the Senate.

Mr. KERRY. Would the Senator extend that courtesy to me for the purpose of an administrative question?

Mr. HATCH. Yes.

Mr. ASHCROFT. Mr. President, I reassert my right to the floor and indicate that I would be pleased to yield to the minority manager of the bill for purposes of an administrative question, with the understanding that at the conclusion of his remarks, or question, I reacquire the right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

Mr. KERRY. I thank the Senator from Missouri very much.

Mr. ASHCROFT. If there was a question propounded to me, it was during the time when I was listening to another question. I need to have it again propounded.

Mr. KERRY. I did not propound a question yet. I was waiting for the Senator to finish. I simply wanted to ask the following. There was an effort between the other manager and myself to try to have comity here so that we weren't really operating in a strict sense by asserting rights to the floor. We were trying to move back and forth in a relatively fair manner, without any sense of trying to cut anybody off. There is no effort here to stop somebody from being able to speak. There is an effort to try to share the opportunities with a lot of busy Senators. So what we are trying to do is get a sense of the length of time, in fairness to colleagues who are lined up to speak.

If the Senator wants to continue to speak, that is obviously his privilege. He can also come back at any time and resume speaking. We are making no effort to hold the floor on this side. We are making no effort to delay. Each of the Senators will speak for a brief period of time. So we are very happy to accommodate our colleagues. I simply ask him if he might give us, at this point, some indication of either when he would complete this round or whether he would be willing to allow some other Senators, perhaps, to have a chance to also speak and then perhaps come back. We are trying to do this in a fair-minded way.

Mr. ASHCROFT. May I answer the question without forfeiting my right to the floor?

The PRESIDING OFFICER. Yes.

Mr. ASHCROFT. I earlier agreed and, as a matter of fact, urged you to have Members from your side go ahead of me. I don't mind them having a chance to speak. When we sought unanimous consent for that, it was objected to by the manager of the bill. I had intended, in every respect, to provide for ample debate.

My view is that this is a very important topic. I learned last night in an announcement by those managing this bill that there would be an effort made to table this amendment without giving a full opportunity for discussion and that there was a time set without even so much as seeking an agreement from Senators as to how much time could be spent.

In my judgment, if you are going to have an $868 billion tax increase on the American people in pursuit of an objective, which is allegedly the reduction of teen smoking, but has lots of other consequences and is unlikely to achieve the objective, we ought to at least be able to debate it. So I am very willing to consider full debate. I want

to have that on this issue. But the managers of this bill have basically signaled to me that they intend to truncate debate, that they don't want this discussed.

So it was my judgment that I needed to come to the floor and bring the evidence with me and then speak about this bill. I intend to speak about it and say what I think needs to be said. I am very pleased to have questions raised. But when questions are raised, obviously, that comes out of the time for me to make my remarks. That would extend the time. I think my position is clear. Early on, I tried to make it possible for those in the Chamber to go ahead of me and make remarks, and that was rejected. So if my only choice is to make my own remarks, then I will make my own remarks. But I sought to make it possible for others to speak.

Mr. KERRY. Mr. President, without the Senator losing any right to the floor, I ask if I may ask a question.

Mr. ASHCROFT. With the understanding that I reacquire the floor at the conclusion of the question, I would be happy to yield.

Mr. KERRY. Mr. President, I ask my colleague if he would agree to the following structure then.

Would it be agreeable to the Senator from Missouri, since he and the intercessions of the Senator from Utah have now taken up about an hour and 15 minutes, if we were to have perhaps 45 minutes or an hour for those on our side to speak, with the understanding that when they are finished the Senator from Missouri would then be recognized to again continue his remarks?

Mr. ASHCROFT. I would like to let the Senator from Utah finish his line of questioning, and then I would be agreeable to such.

Mr. KERRY. Again, without the Senator losing his right to the floor, I propound a question. How long does the Senator from Utah think that might be?

Mr. HATCH. Am I entitled to speak? I don't think it will be too much longer. But I would like to go through my questions. I am not intending to delay here. This is a very large bill, perhaps the largest the Senate has ever considered, at least in recent memory. We need to question its full impact as we proceed. That is the right way to make policy on such an important issue.

Mr. KERRY. Again, I ask the question without the Senator losing his right to the floor. Could we then enter into an agreement that I ask unanimous consent that when the Senator from Utah has completed his series of questions to the Senator from Missouri, that at that time there be 1 hour allocated to this side of the aisle, to the Democrats, for their debate, at which point the Senator from Missouri would again be recognized to resume his comments?

Mr. GRAMM. Reserving the right to object, Mr. President.

Mr. PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, it is clear we are dealing with an issue of grave importance, representing tremendous amounts of money, with very strong passions on the issue. And, quite frankly, there is relatively little good information about the bill. We don't even know what the impact of this amendment would be in terms of the cost of the product on which the tax would be imposed. The logical thing to do is follow the rules of the Senate. The rules of the Senate are very clear. As long as a Senator wishes to speak, or answer questions, that Senator has the right to do it.

I think, rather than interrupting the process, we would all be better off to just follow the rules of the Senate.

On that basis, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. KERRY. Mr. President, parliamentary inquiry: Is it not a rule of the Senate that one may ask for unanimous consent and, in asking for unanimous consent, we are following the rules of the Senate?

The PRESIDING OFFICER. The Senator is correct.

Mr. KERRY. I thank the Chair.

The PRESIDING OFFICER. Objection was heard.

The Senator from Missouri has the floor.

Mr. HARKIN. Mr. President, will the Senator yield for a unanimous consent request?

Mr. ASHCROFT. I will yield with the understanding that my right to the floor is not forfeited to the Senator from Iowa.

PRIVILEGE OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Michele Chang, a detailee to my staff, and Peter Reinecke and Sabrina Corlette of my staff be granted floor privileges for the duration of the consideration of S. 1415.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. I thank the Senator.

Mr. CONRAD. Will the Senator from Missouri yield for a question?

Mr. HATCH. If I could continue——

Mr. ASHCROFT. I would like to yield to the Senator, but I am in the midst of yielding for questions to the Senator from Utah. I want to persist in that line of questioning. So I reassert my right to the floor.

If the Senator from Utah was asking me a question, I would ask him to request that I yield for the purpose of a question.

Mr. HATCH. Will the Senator please ask unanimous consent that the colloquy not be interrupted?

Mr. ASHCROFT. I ask unanimous consent of the Presiding Officer that our colloquy not be interrupted by these other proceedings, and that the other proceedings be printed suitably at the end of the questioning.

Mr. MCCAIN. Reserving the right to object, I certainly wouldn't want to interrupt that important colloquy.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I say that the distinguished Senator from Arizona may not appreciate this colloquy.

Mr. ASHCROFT. If that is a question, I am aware of that fact.

Mr. HATCH. I have to admit that I don't appreciate some of the colloquies that have gone on before, but Senators have a right to do so. This is too important an issue for the American public. We need to look at the real facts on such important legislation. We are not just trying to run any bill through because some people want to. I think this legislation deserves debate. We are talking about price levels that will amount to huge tax increases for some American people. We are talking a bill which does not have the cooperation of the tobacco companies, thus raising serious constitutional questions.

(End of earliest proceedings.)

Mr. ASHCROFT. Mr. President, I am deeply troubled about the fact that we are, in this process, taxing American families and taxing those American families who have very limited income. Fifty-nine point four percent of the $755 billion that my amendment would take out of this bill, which are taxes on consumers—59.4 percent of that is to be paid by families with incomes of less than $30,000. If you move it up to the $60,000 level, you are talking abut almost two-thirds of the people, hard-working families from our culture, who struggle to put clothing on the backs of their children and the right kind of food on the table.

There is a suggestion by some that they can just stop smoking automatically. If they are going to stop smoking, why are we counting on the money? We are counting on receiving almost $1 trillion over the next 25 years from these folks, and it is predicated on the idea that they can't stop smoking. If it were a switch that we could flip on and off, perhaps we would go find the switch and do it. But that is not what we are talking about. We are talking about taxing individuals who don't have any elasticity of demand.

There has been a lot of talk about the elasticity of demand, economics—that if you elevate the price, the demand will go down. If people are addicted, they can't stop, so they have to pay. That is these folks here—59.4 percent of the individuals paying this tax will be individuals making under $30,000 a year.

Americans are working longer and harder than ever to pay their taxes. The number of moms and dads, two parents in the family, both working; or in single-parent families, obviously, the only parent is working—we are taking more and more of their resources. We take now more of the income of the American people than ever before in taxes. We are at peace, we are in prosperity, but still, Government is costing more than ever before. We have charged so much for Government, we

are finding we have a $43 billion surplus. CBO says it might be up to a $63 billion surplus.

What are we going to do? Instead of giving people their money back, instead of saying, ''You send it, we spend it,'' we should be saying, ''You earned it, we returned it.'' No, we are not doing that. Where are we going with this? We are inviting another $868 billion of burden on those who can least afford to pay it. It is just incredible. We should be debating how to return the money to taxpayers, not how to siphon more out of their pockets. As currently drafted, the proposed tobacco bill is nothing more than an excuse for Washington to raise taxes and spend more money.

I might add that earlier I sent to the desk a modification of the amendment making technical changes. That does not require anything. I want to indicate to the Senate that I had done so, and it doesn't require action.

This proposed increase in Government and taxes is the biggest proposed increase since President Clinton's proposed increase on health care. My own sense is that it took a while for the people of the country to realize what the Federal takeover in health care was going to do to this country, when the American people figured out what it was going to cost. And when the American people understand that this isn't a penalty on the tobacco companies, this $755 billion that I want to knock out of this bill isn't something that the tobacco companies will pay, this is something consumers will pay.

The law specifically forbids a tobacco company from passing this on to consumers. There is a mandatory rule that this can't come out of the profits of tobacco companies. This can't come out of their retained earnings. This can't come out of their capitalization. This has to be imposed on the backs of these workers, these folks who are making under $30,000 a year, these additional folks making under $60,000 a year.

Here we could have an additional 17 boards and commissions. There is the statute: ''Payments to be Passed Through to Consumers''—not payments to be endured or suffered by the tobacco companies. But these are payments to be undertaken by poor families. Three packs a day, $1,600 a year—that is what they are asking for, $1,600 a year off of the tables, out of the houses, out of the budget for the children in these families. That is what this is a law about. This is a law that would take an enormous amount of resources from the families of America. They are already paying taxes that are virtually out of sight. They are already paying taxes for more than food, clothing, shelter, and transportation combined in this country, and we are going to add to the poorest of the poor this incredible burden. Seventeen boards, commissions, and agencies—they say they have been removed from the legislation. The bureaucracies envisaged by the bill will still be there; it is just that they are no longer sort of visible. We have gone from unaccountability to anonymity. That will not cure things. This huge tax increase would be levied against those who are least capable of paying.

According to the Congressional Research Service, tobacco taxes are perhaps the most regressive tax that is levied in America. It is a tax that hits poor people the hardest. And we are discussing what we want to do with that $868 billion of additional burden on the poor. About 60 percent of this tax increase would fall on families earning $30,000 a year or less. Those earning less than $10,000 a year make up only 10 percent of the population, but 32 percent of those people smoke. So the current tobacco tax represents 5 percent of the smokers' income in this category.

This would take from the people who are struggling to make ends meet, making $10,000 a year, 5 percent of their income. That is really a pack-a-day habit we are talking about. We are not talking about a two-packs-a-day habit. If they have two packs a day, it is far more than 5 percent of $10,000. Those making between $10,000 and $20,000 a year are only 18 percent of the population; however, 30 percent of them smoke. The current tobacco tax would take a real chunk—2 percent of the smokers' income—in that category. This bill amounts to a tax increase on 31 percent of Americans who earn under $20,000 a year.

So among those who are the poorest of our hard-working Americans, who are low-income, they are the people who really get hit with this. And 31 percent of all people making less than $20,000 a year are the individuals who are going to be sustaining this tax burden. Households earning less than $10,000 a year will feel the bite of this tax increase most of all.

The Joint Committee on Taxation estimates that these households, those earning less that $10,000 a year overall, would see their Federal taxes rise by 44.6 percent—44.6 percent. Those making between $10,000 a year and $20,000 a year make up 18 percent of the population; 30 percent of them smoke. In most areas of the country, somebody earning $10,000 a year is well below the poverty line. But here we come. We are so interested in additional revenue, at a time when we have surplus, that we are willing to sock it to those who are low-income individuals.

We spend much of our time in this body trying to find solutions for those in this income bracket. We have tax credits; we have welfare programs; we have educational grants; we have job training programs. They cost us billions of dollars a year. We try to lift people in those low-income brackets out of their problems and difficulties. However, today, Members of this body are enthusiastically saddling them with a huge, huge tax burden. In fact, some are even trying to make it worse.

It is pretty clear that some people have come and said that people will stop smoking. I will get to that next. Here it is. The kind of tax increase, if you are making under $10,000 a year, is 44 percent. We are not really tax increasing anybody since most smokers are concentrated in this part of the graph. Low-income people are going to pay the lion's share. They are going to have very significant increases in their tax load.

Now, some Members were critical about the statement that this is a huge tax increase on low-income people. It was stated that I was assuming that they would be irresponsible and not take care of their families' needs. I am not saying here that anybody is irresponsible. I do think that the Government has frequently been irresponsible. It is irresponsible to take this much of the income from people who are trying to clothe their families and feed their families.

The revenue assumptions in this bill are based on the fact that most people will continue to smoke. You can't have it both ways. You can't say that people are going to suddenly stop smoking; you can't say that and still say you are going to spend the money and collect the money. This is basically a tax, a tax that relates to the increase in the price of cigarettes, a tax that passes money from low-income, hard-working Americans to big Government in America so the Government can do a wide variety of things.

Frankly, I think some of the things that this proposes to do are literally laughable. Some of the programs that are in this bill are designed to curtail smoking overseas. So we are going to tax low-income Americans, folks who are struggling at $10,000, $15,000, or $20,000 a year to make ends meet; we are going to take money from them and go overseas and run antismoking campaigns. Now, in my judgment, that is a very, very serious disconnect with what we are supposed to do. We are supposed to make it possible for Americans to live decently and independently and provide for their children, to have a framework in which Government at least lets them enjoy the fruits of the things they labor to produce; and if we don't do that, it seems to me that we obviously have failed.

I don't believe we should be taking money from hard-working, low-income Americans and putting it into a foreign aid system that tries to tell people on the other side of the world how they should act and what they should do. If I believed that everybody would quit smoking, the impact of this bill obviously would not be so significant because it would not be a tax. But it is clear that there will be a tax, and there is a predicated set of receipts that is going to run between three-quarters of a trillion dollars and a trillion dollars. Everyone in this Chamber, the administration, and health officials are making the assumption that people will continue to smoke.

As currently drafted, this legislation will cause somebody who smokes two

packs daily to pay the Government an additional $803 a year. A lot of families could take a vacation on $803. A lot of families could buy additional clothing. A lot of families could afford courses at a junior college to change their skill levels and upgrade their jobs. A lot of families could care for a relative or otherwise do something that we need to get done rather than send this money to Washington, DC. That is $803 for somebody who smokes two packs a day. For a family smoking three packs a day, it is even more.

My amendment would prevent that from happening. My amendment simply says we are not going to punish the American people for that which the tobacco companies have done; we are not going to hurt the hard-working Americans of low-income as a means of objecting to the abuses of big tobacco.

Moreover, as currently drafted, this legislation allows the tobacco companies to deduct the mandatory payments that are ultimately to be paid by consumers as regular business expenses. Over 5 years, that kind of writeoff would be worth about $36 billion in the tobacco industry. So if we are giving a tax break to the tobacco industry that is going to be worth $36 billion to them over 5 years, and part of that comes as a result of the fact that we are taxing individual consumers, I think that is really unfair.

Let's take a second to understand this. In this legislation that is supposed to be so tough on the tobacco industry—and, frankly, the tobacco industry participated in formulating almost all of the basic components of this legislation—the companies act as a tax collector by sending the U.S. Treasury $102 billion over the next 5 years. Then they get a tax deduction, and they cost U.S. taxpayers—all taxpayers, whether they are smokers or not—$36 billion in lost revenues because of the tax deduction.

What you get here is a subsidy through the back door. They send in $102 billion they collect from people and then they get $36 billion of it back as a tax break for the company. I think that is a particularly anomalous result. That is a result which we certainly do not really want to have. They collect money from poor, hard-working Americans, turn it in, and when they turn it in they get a tax deduction of $36 billion.

Before we consider passing a massive tax increase, it should behoove us to review the government's record thus far in respect to taxes, spending, and government employment. Where have we been recently in terms of tax increases, in terms of spending? In Washington, taxes and spending are the only things more addictive than nicotine. Policymakers in Washington think they know better how to spend the money of families than American families do.

In the 15 years prior to 1995, Congress passed 13 major tax increases. Last year's Taxpayer Relief Act was the first meaningful tax cut since 1981. The tobacco tax increase would more than erase that relief. We need more tax relief, not less. If we have the increase that is proposed here, it will totally erase the relief we gave last year. The tobacco industry tax, then, proposed in this bill is not a tax on the industry. It is a tax on the consumers. It would more than erase the relief we gave them last year.

The tax relief date has now set a record of May 10. People work longer this year for the Government than ever before. Federal, State, and local taxes claim 37.6 percent of the income of a median two-income family in 1997, more than the couple spent on food, and shelter, on clothing, and transportation combined.

During Bill Clinton's first 5 years in office the Federal Government collected 19 cents in taxes for every dollar increase in the gross domestic product. According to the Joint Economic Committee, the Federal Government is now taking a higher share of economic growth than under any President in recent history. The Joint Economic Committee continues, The average rate during the entire era before Clinton from Presidents Eisenhower to Bush was 19 percent. Obviously, the Federal Government has yet to reject the idea that it can just tax and spend and tax and spend.

The PRESIDING OFFICER. The Chair notes that you wanted to modify your amendment. Is that correct?

AMENDMENT NO. 2427, AS MODIFIED

Mr. ASHCROFT. That is correct. I modify my amendment which is at the desk, which is technical in nature.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 2427), as modified, is as follows:

In lieu of the language proposed to be inserted insert the following:

CERTAIN PROVISIONS RELATING TO AMOUNTS IN TRUST FUND NULL AND VOID.—

Notwithstanding any other provision of law, the following provisions of this Act shall be null and void and not given effect:

(1) Paragraphs (1) and (2) of Section 401(b);
(2) Section 402(a); and
(3) Sections 401 through 406.

Mr. MCCAIN. Parliamentary inquiry, Mr. President: Does that last request require a unanimous consent?

The PRESIDING OFFICER. It does not require a UC.

Mr. MCCAIN. Thank you.

Mr. ASHCROFT. Mr. President, I thank the Chair.

Members of this body have been arguing over the past few days that there is no tax in this bill. In fact, the Finance Committee, in its mark, at least tried to level with the American people by reporting out a bill that calls it a tax. For a long time this was sailing under a sail which was mislabeled. Webster's Dictionary defines a tax as a compulsory payment, usually a percentage levied on income, property, values, sales prices, et cetera, for the support of government. Let's lay this argument to rest now and forever. This is a tax. It is a compulsory payment made at the point of sale for the benefit of government. In this bill we have compulsory payments by the industry.

The bill then requires the cost of these payments to be passed on as price increases to consumers, and even penalizes companies if they fail to collect this tax. Payments are used to fund massive programs for Federal and State governments. It has been said that industry is the group that is convincing people this is a tax bill. Frankly, industry couldn't make this a tax bill if it weren't a tax bill. Frankly, this body cannot keep it from being a tax bill if the language of the bill is really taxing. What we know is that the Senate can't keep it from being a tax if it is really a tax by calling it something else, and industry couldn't make it a tax by calling it a tax. The truth of the matter is it is an elevated price required to be collected, the proceeds of which go to support government.

The supporters of this bill claim this legislation is needed to curb teen smoking. ''Do it for the children'' is all we hear. But this bill is about big government, not about protecting the health of young people. It is about more bureaucracy. It is about more Federal programs. It is about higher taxes, new bureaucracy.

The bill reported out of committee contained 19 new boards, commissions, and agencies—17 new boards, commissions and agencies—a blatant expansion of government claim under immediate and harsh criticism. What happened? We have a claim that the bureaucracy has been eliminated. But is it really? I don't think that it is really eliminated. I think the names have been changed. But the same tangled mess as this chart represents still exists in this bill.

This is the structure of the National Tobacco Policy and Youth Smoking Reduction Act that was reported by the Senate Commerce Committee on the 1st of May 1998, just a couple weeks ago. This is a complicated set of extremes. I might add that these are funding extremes. Money is flowing like a flood. The bureaucracy is still in this bill. It is just more anonymous, less visible, less accountable. The names may have been changed, but it is still the same animal.

Let's look at the whole chart. Here we have the International Tobacco Control Trust Fund. Interesting. The International Tobacco Control Trust Fund, foreign aid grants to support tobacco control. The international program is still here. I will talk more about it in a minute.

The Tobacco Asbestos Trust Fund, $21 billion allows payments to be made for asbestos claims when Congress enacts qualifying legislation. Payments will be made out of the tobacco trust fund for the 22-percent set-aside for public health expenditures.

Compliance bonuses for States: Here it is. It is still in there.

Research activities for CDC, Institute for Medicine, and NIH are still in there.

State licensing program grants are still in there.

The National Tobacco Free Education Program is still on the chart.

The Indian tribe enforcement bureaucracy is still there.

The Indian tribe public health grants are still in there.

Counteradvertising programs are still in there.

The prevention of tobacco smuggling measure is still in there.

Veterans programs are still in there.

The National Tobacco Document Depository is still here.

Smoking cessation programs are here.

Child care development block grants are still there.

We are going to be taxing those lowest income families to provide additional child care for others.

Tobacco community revitalization, this is the tobacco farmer; very serious questions about this particular portion of the bill.

The Senator from Texas talked about the so-called Tobacco Community Revitalization Program. He brought out, as a matter of fact, on the floor yesterday the fact that he priced tobacco allotments per acre. It could be purchased for about $3,500 or $3,600. Then he indicated that the payment envisaged here was a multiple of about five times that high.

The international programs, which I mentioned, are kind of interesting. The committee bill contained the American Center on Global Health and Tobacco, which was authorized to receive $150 million a year so that we could sort of be influential overseas with our policy on tobacco.

We want to tax the lowest income families in America. We want to tax hard-working people, increase their taxes. My amendment would delete $755 billion in taxes on these individuals contained in this bill.

This bill is designed to fund things like the American Center on Global Health and Tobacco. The center is not to be found in the managers' amendment. In its place, the Secretary of Health and Human Services is authorized to establish an international tobacco control awareness effort. So instead of having this agency sort of be out there created by the statute, we have just authorized the bureaucracy to create a new agency. The Secretary of Health and Human Services is authorized to establish an international tobacco control awareness effort.

Now, here we have to remember—we are taxing American low-income families to do this—59.4 percent of all the taxes that go to establish this international program on tobacco awareness are going to come from families making less than $30,000 a year. What is this new effort required to do? One, support the development of appropriate governmental control activities in foreign countries—enhance foreign countries' capacities to collect, analyze, and disseminate data about the cost of tobacco use.

We are going to fund foreign countries so that they can have studies on how much it costs to use tobacco. And we are going to do that by taxing low-income people. Sixty cents out of every dollar in this program is going to come from families with less than $30,000—low-income individuals, less than $30,000. How much money will this cost?

Mr. KERRY. Mr. President, will the Senator from Missouri be willing to yield for a question?

The PRESIDING OFFICER. Will the Senator yield for a question?

Mr. ASHCROFT. I will for a question.

Mr. KERRY. Mr. President, I would ask the Senator from Missouri whether he is aware that the chart that he has there is the representation of the bill when it came out of the Commerce Committee, not of the managers' amendment, and that under the managers' amendment all bureaucracies were, in fact, eliminated and only three existing entities exist? I wonder if the Senator is aware that there are only three entities.

Mr. ASHCROFT. As a matter of fact, I have been speaking about that. I indicated that this was the chart and these functions remain. But very frequently, instead of the bureaucracy still being there and labeled and identified, you have a transfer from the bureaucracy to something that you just ask the Secretary to do.

For instance, I have just been talking about the transition from the international tobacco control trust fund, and in its place the new bill has ''the Secretary of Health and Human Services is authorized to establish.'' So instead of actually establishing, you just authorize that a bureaucrat establishes it. You get it out of the bill, but you still have it in terms of consequence, and you still have all the money available to be spent for the same purposes.

That is my understanding of what has happened here, and you are going to have $35 million each year for the first 5 years, and then such funds as may be necessary for these international activities. So I am aware of the fact that the bureaucracies were taken out of the bill ostensibly, but I am also aware of the fact that what you let go out the front door it looks to me like you bring back in the back door, because the Secretary of Health and Human Services is authorized to establish—it is not in the bill anymore, but the Secretary of Health and Human Services is authorized to establish an international control awareness effort, and that is basically for the same purposes.

Mr. KERRY. Mr. President, will the Senator further yield for a question without losing his right to the floor?

Mr. ASHCROFT. Yes.

Mr. KERRY. Is the Senator not aware that each of those responsibilities which are designated to existing entities are already existing programs and existing efforts? Most of the requirements, whether it is money in public health, money in farmer community assistance, or health research, they are all ongoing programs, but that this augments their ability to be able to achieve the goals of existing programs?

Mr. ASHCROFT. I understand that some of these programs are already programs which are undertaken, but not even close to the extent that this bill mandates—thus expanding the already oversized Government bureaucracy. I also understand that what we have here is a pot of money that we think we can generate by taxing the lowest-income, hardest-working poor people in the country. And what we are going to do is to start spending more money for these overseas studies, and we are going to put 60 percent of that additional money that comes out of this additional $868 billion tax—$6 out of every $10 is going to come out of the pockets of Americans earning less than $30,000 a year. That is really troubling me.

Mr. HUTCHINSON. Mr. President, will the Senator from Missouri yield for a question?

Mr. ASHCROFT. I am pleased to yield for a question, understanding I do not yield the floor.

Mr. HUTCHINSON. I presided the previous hour, and I was fascinated by some of the information that the Senator has been providing our colleagues and the American people. Did I hear the Senator correctly that 60 percent of the increased taxes in the base bill would fall upon lower-income Americans?

Mr. ASHCROFT. Well, people who earn less than $30,000 a year would pay, according to the estimates, 59.4 percent. So I don't want to inordinately suggest that it is a full 60. It is 59.4 percent of those taxes would hit people who earn less than $30,000 a year.

Mr. HUTCHINSON. For my benefit, how much in the base bill would a pack of cigarettes increase?

Mr. ASHCROFT. Well, in the base bill it has been suggested that the increase in the cost of a package of cigarettes would be about—total increase would be about $2.68 at a minimum. That includes all the things that are in the bill. The $1.10 which is the mandated price increase, by the time it works its way through the system, would be about a $2.68 increase in the price of cigarettes.

Mr. HUTCHINSON. Two dollars and what?

Mr. ASHCROFT. A $2.68 increase.

Mr. HUTCHINSON. Would the consumer buying a package of cigarettes actually see the price go up that much?

Mr. ASHCROFT. Yes. I would say it is fair to say they would be seeing that increase in terms of the consequences of the bureaucracy in this bill.

Mr. HUTCHINSON. For a family of three, let's suppose, a mom and dad

and a child, in which one or both smoke two packs a day between them or separately—but two packs a day—then we are taking $5 a day, $1,500 a year, away from their consumable income. Is my math approximately correct on that?

Mr. ASHCROFT. It would include the current cost of the cigarettes. We are talking about a two-pack-a-day thing. It is really about, the increase is about—you are right, as a matter of fact.

Mr. HUTCHINSON. So even with a $1.10 increase, we are looking at better than $2 a day, or a $600, $700 increase?

Mr. ASHCROFT. Yes. At $1.10 a day, 365 days would be about $400, and for two packs, that would take it to $800. I think it figures out to $803, if it is just at $1.10 on the increase.

Mr. HUTCHINSON. I did a little focus grouping in Arkansas where I just asked people—one lady had six children, five of whom smoke. They are between the ages are 35 and 40, grown children. I asked her would they quit smoking if it went up $1.50 a pack. She laughed. She said, ''No, they won't. They are addicted, and they wouldn't do it.''

Mr. ASHCROFT. My view—and I am pleased to have the question—my view is, this bill is predicated on the idea that people won't quit. If this bill were predicated on the idea that people would quit, we would not have the big numbers and the big money to pass around. We are assuming that these people who earn less than $30,000 a year are strapped in the habit of smoking, can't quit, and therefore we are going to be able to have $868 billion of their money over the next 25 years.

Mr. HUTCHINSON. If I could ask the Senator from Missouri, if a family is making $30,000, with children—and there are many of those in Arkansas, many, many, tens of thousands—assuming the budget is tight already, they are having a hard time making ends meet, that every dollar is already spent, where then would you anticipate them cutting back to pay that additional tax for cigarettes that is envisioned in this proposal?

Mr. ASHCROFT. Families have a tough decision where they cut back, but I imagine it would hurt virtually everything they do in some measure. I doubt if they would take it all out of one area. For instance, I don't think they would stop driving their car, and I don't think they would stop eating. They can't do that. But I think virtually every aspect of their existence. If you are talking $800, $1,200 a year, $100 a month, for instance, on three packs a day, if you take that $100 of a month out of the budget of low income families, we may drive some of them into dependency. And that is last thing government should do is make it hard for people to provide for their families. We should be finding ways to make it easier for people to provide for their families.

Mr. HUTCHINSON. With this very dramatic tax increase on low and middle income families, some people could loose their health insurance, end up on Medicaid conceivably?

Mr. ASHCROFT. Obviously, they could be forced into all kinds of reliance on outside sources. With the stress that would happen to a family that lost $100 a month by virture of this kind of massive Federal tax on the family, who knows what happens even in the way the family is composed in a setting like that because financial stress is a big part of the challenge to families generally. This is an anti-family measure. This takes from families a very serious proportion of the resources they use to care for one another. And when we say that Government wants this money so badly it will take it from you, and we know you are going to pay it because you are addicted and can't stop, we have really allowed the greed of Government to overtake us. And to say to families, it doesn't matter about you, we are so interested in doing what we want to do—and it does shock me that we are going to spend this money overseas, keeping data about the costs of smoking overseas. I just can't imagine how many folks in Arkansas or my home State of Missouri, who are earning $30,000 or $10,000 or $15,000, would want to make these kinds of payments so they could keep track of the costs of smoking in foreign jurisdictions. That is mind-boggling.

Mr. HUTCHINSON. If the Senator will yield for a further question?

Mr. ASHCROFT. I will yield for a further question.

Mr. HUTCHINSON. Last weekend I read a 35-page summary of the 750-page original bill, but with the changes that have been envisioned—and the Senator has mentioned this in his remarks—how much would be going overseas for smoking cessation and education programs overseas? How much was that?

Mr. ASHCROFT. The bill, I think, provides that there are $350 million for each of the first 5 years. And then, after that, there would be ''such sums as may be necessary.''

Mr. HUTCHINSON. Did I hear the Senator correctly in describing this as a kind of foreign aid bill, at least to some extent?

Mr. ASHCROFT. We are paying for governments overseas. We are paying for someone else's government, for their studies overseas. We are helping foreign governments decide how costly it is for their citizens, I guess. I don't know if this is an idea to make sure—we want people overseas to make sure they realize how much it is costing them to smoke?

I think we have a responsibility to people in this country, who know how much it is costing them to live, to let them keep some of the money they earn so they can help their families. But the $350 million a year that goes into this program is something that I seriously question whether we want to tax the lowest income people in America in order to achieve.

Mr. HUTCHINSON. Am I correct in understanding that this would be a massive transfer of wealth from the lower-income Americans to citizens—people who are not even citizens of this country?

Mr. ASHCROFT. Most certainly. It would be taking money from low-income Americans and transferring what resource they have to provide for their families, a significant portion of it, and sending it to foreign governments so they can conduct studies about what the costs of smoking are in their culture.

Mr. HUTCHINSON. Am I further correct that the States that have low per capita income—because almost 60 percent of this will fall on those earning under $30,000 a year, States like Arkansas, which is ranked in the lower 5 or 10 percent of income in the Nation—that this would fall disproportionately upon those lower-income States?

Mr. ASHCROFT. Obviously. You know, 60 percent of all these sums are going to come from people who earn less than $30,000 a year. So States that have a high population that earn in the category of less than $30,000 year are going to be paying far more of this than the other States which have high-income individuals and are not so populated by individuals who smoke.

Now the real correlation is, if you smoke, you are going to pay this increase in taxes. It turns out that smoking is the custom, is the choice—I think it is a bad one; I have never thought smoking was a good choice—it is the choice of people who are low-income, and it is something they feel they choose to do. It just astounds me that only in Washington, DC, is a bad choice made by free people the basis for taxation.

People are free. We haven't suggested they are not free to make this choice. We just want to make it hard. We are apparently willing to make it hard for those people, and we are willing to do that in order to fund overseas programs.

Mr. HUTCHINSON. Of course I appreciate that. I don't smoke. I have never taken any money from any of the tobacco companies. I know anybody who objects to this bill will be portrayed as being a defender of tobacco companies. I have never taken any.

But my question for the Senator would be. Has there been any study as to what kind of fiscal impact this would have on State and local governments? And is there a potential of it undermining the revenue base that local governments would have because of the increased taxation at the Federal level?

Mr. ASHCROFT. There are some interesting things that come as a result of this proposed tax increase.

No. 1, it would mean that the Federal Government profited more than any other entity or institution from smoking in this culture. We would have more benefit from smoking than any of the companies would in profit. So the

Federal Government would become the No. 1 beneficiary of tobacco use in the country.

No. 2, if there is a serious black market problem with contraband cigarettes, then that changes a number of calculations. One of the things it will change is, if people go into the black market on cigarettes sales, they not only don't pay their Federal tax, which is this additional $1.50 that is being proposed here today per pack, but they will also not be paying the State tax. You can't imagine some contraband person saying, ''We are going to go ahead and pay all the State taxes on these contraband cigarettes, but we are not going to pay the Federal tax.''

So it might well be if the black market develops a sense of intensity and there is a substantial velocity in the black market, that money which had previously been paid to States by cigarette marketers, that money from those packs that are no longer being sold in the open market but are being sold in the black market, States could lose that revenue stream which they now have from the legitimate sale of cigarettes.

It should be noted that there is already a black market problem in cigarettes because of different State levels and just because the tax is so high. This would probably—frankly, it might serve to make millionaires out of some people who are already dabbling in the black market for cigarettes.

Mr. HUTCHINSON. If the Senator will yield for one final question, as I listened to his comments, they reflected my own feelings—his concern about low-income Americans. It struck me that those who have professed to be the greatest defenders of the poor are those who seem to be the proponents of this massive tax increase upon working poor Americans. But the Earned-Income Tax Credit Program is a program designed to assist those who are working Americans, low-income working Americans, to prevent them from falling into dependency and being on the welfare system.

Is there anything in this base bill that would, in a sense, compensate those low-income working Americans who are going to see this very confiscatory tax imposed upon them through this dramatic increase in the price of cigarettes, to assist them in reforming the EITC Program or in some way offsetting these additional taxes that they will be paying? Or is this an absolute, real loss of consumable income for those who are most poor in our society?

Mr. ASHCROFT. This is a very good question. I thank the Senator for asking it. These are hardworking people, struggling. They get up early in the day, work late at night, sometimes rely on friends and relatives to help care for their children. Sometimes they can afford day care; sometimes they can't. But, basically, this is a bill which says we are going to take their money and we are going to spend it in this kind of bureaucracy.

As I indicated, some of these bureaucracies are relabeled and they are not constituted independently anymore. Some of these are constituted only by virtue of the fact that they are authorized for a Secretary, a Cabinet Secretary, to appoint. But, by and large, in the grand scheme of things, this is a situation where the money goes; it does not come. And the money—there is no specific indemnity for individuals who are the people who are hit by this tax. I know of nothing in this bill that says, for people who have a very serious consequence as a result of this tax, we are going to mitigate it in some way. It is simply not there.

Frankly, we have to be honest. The proponents want to impose this tax to make it very difficult for people to smoke. But for people who are addicted, it will be more difficult for them to stop. And that is why they can presume that we will be collecting these hundreds and hundreds and hundreds of billions of dollars.

Mr. HUTCHINSON. I thank the Senator.

Mr. ASHCROFT. Mr. President, I thank the Senator from Arkansas for the kinds of inquiries that he raised. They go right to the heart of the issue. This tax is focused on the lowest-income individuals in the United States, people who have the least capacity to pay. Frequently, people making in the $30,000 range will be young people. They haven't gotten their incomes up high. They are the people with children in their families, so they need to be able to provide for those children. They need to be able to make sure they are cared for. They need to try to start putting something away so those kids can someday go to college. Instead of allowing them to put something away, we are going to take something away.

For a two-pack-a-day family, that is $803 we are going to take away. Pardon me, that is under the $1.10 figure; that is not under the $1.50 figure. For a three-pack-a-day family, that will take you over $100 a month we are going to take away so that the family can't put it away for when they have needs. Frequently, in many of these families, they are not in a position to put anything away. These are families literally making it from check to check, and we are intending to come in and make this kind of substantial demand on them.

The bill requires States to have massive licensing schemes for retailers who sell tobacco products. So there will be significant new bureaucracies at the State level. These are just examples of bureaucracy in this bill. I want to mention that just once more. One of the strongest aspects of this bill is the States will be eligible to receive a total of $100 million a year in compliance grants if they reach a certain level where kids are unable to purchase tobacco products.

Then it requires States to give out part of those funds to retailers with outstanding compliance records. Let me make it clear. It currently is illegal for a minor to purchase tobacco products in every State of the Union. However, Congress is now establishing a program of bureaucracy to reward retailers for following the law. I think it is pretty clear that this is the kind of double whammy that Government too frequently has. It is against the law in the States for retailers to sell cigarettes to youngsters, and now we are going to have a special incentive program paying large amounts of money, up to $100 million a year, if the retailers will only abide by the law.

Mr. INHOFE. Will the Senator yield?

Mr. ASHCROFT. I will be happy to yield to the Senator from Oklahoma for a question.

Mr. INHOFE. I was presiding the other day, and I want to make sure I understood you correctly. You drew a relationship between our tax reductions that we were able to pass last year that we all went home and were so proud of—and we are talking about the child credit, and we are talking about the estate tax changes, relating that to the tax increase under certain assumptions. I would like to have you repeat that for my benefit.

Mr. ASHCROFT. I think the facts are these: That this massive tax on poor people in the United States would more than wipe out the entire tax cut passed last year, and that is at the assumption level of $1.10 a pack—not at the assumption level of $1.50 a pack, which is the Kennedy proposal.

I want to make it clear that I am against the $1.10-a-pack increase, not because it is an increase on the tobacco companies, but precisely because it is not. This is not a tax or an injury to the tobacco companies; this is something that is required of the consumer.

What I am saying is that we would collect so much money—even at $1.10 a pack—from people that it would totally erase last year's tax relief.

Mr. INHOFE. If you will yield further, you are talking about the child tax credit, you are talking about the education incentives, the estate and gift tax reductions, the IRA exemptions, the corporate AMT reductions—all of these would be offset in terms of a tax increase?

Mr. ASHCROFT. The family kinds of things, the capital gains sort of things—these are the things that would be totally wiped out by the additional collections which would be mandated under this bill. They are mandated that they be collected from, basically, the poorest people in the culture—60 percent, basically, under $30,000. It would mean that over time, over the last 2 years, we would have had a tax increase not a tax decrease.

Mr. INHOFE. If you will yield further, I think so often we talk about the fact that 54 percent of the taxes would be paid by people with incomes under $30,000 a year. We forget sometimes to mention that only 3.7 percent of the tax will be borne by those with incomes over $115,000, which I think is very significant.

I ask you this question since you represent the fine State of Missouri and I represent your neighboring State of Oklahoma. I had an experience and I just want to see if Missouri is anything like Oklahoma.

Over the last 10 days, I have had 3 days of townhall meetings throughout the State. As you know, I am active in aviation. I have all these townhall meetings at airports. With 20 meetings in 3 days—that was kind of a record for me, because normally I do five a day—not one time in one townhall meeting, in Watonga, OK, in Oklahoma City, in Miami, OK, right up on your border, or anyplace in Oklahoma, did anyone bring up the subject of the tobacco bill.

I brought it up in about half those meetings just because nobody had asked the question about this tobacco bill. Then when I talked to them about it, they said they had read about it and they said, ''We're opposed to it.''

In Oklahoma, in those meetings, there was not one hand that went up when I asked, ''Is there anyone here who is in support of this tobacco tax increase in this tobacco bill?'' Not one.

Is there something unusual about Oklahoma, or could it be that this is really a beltway issue? Have you tested your people in Missouri on this?

Mr. ASHCROFT. My encounter has been this: First of all, the bill is not raised, but when people find out that instead of punishing the tobacco companies, we are taxing tobacco users, so that an individual who earns less than $30,000 a year, if he is a two-pack-a-day smoker, he is going to pay an additional $803 in taxes, they don't understand that. They say, ''Wait a second, if you are trying to punish evil tobacco companies, if that is your objective, punish the companies but don't punish hard-working Americans who are struggling to make ends meet.''

My phones have begun to ring when people began to understand that this is not a circumstance where we are going to try to punish the tobacco companies to that extent. The real punishment comes because this law requires—this law forbids the tobacco company from taking any of this tax out of its earnings—it requires the company to ''pass it on.''

What is interesting, it is even more anomalous than that. The tobacco company collects this $109 billion in the next 5 years, or whatever it is, and turns it into the Government, and we give them a tax deduction for it so that they end up having a $36 billion subsidy that comes back for their having, basically, been involved in the collection of this sum of payment to the Government.

My own view is that when people find out this bill really is a bill against hard-working Americans and it is a tax measure, that is when we are going to start hearing more about it. People thought this was antitobacco. There are some things in the bill that distress the tobacco companies, but, frankly, I am more distressed about what we do for them—shutting down their liability, cutting it off. I think it is wrong to say that there is a certain amount that they can be liable for and no more.

You don't have any guarantees against lawsuits as a citizen. If you do things that are wrong, people can sue you. There is no limit to what can be collected against you if you do things that are wrong. This bill puts clear limits in for the tobacco companies, basically saying no matter what you do, you can only have this much money awarded against you in court.

So no matter how many people are affected, whether it is cancer or emphysema, lung disease, heart disease, no matter how much it is that the courts might allocate against you, we are going to lock down the thing in this bill, we are going to provide a limitation.

Some people don't understand. Originally, they thought this was anti-tobacco companies, and the companies are upset with them, but there are lots of things in here which are procompany and they are really anticonsumer.

Mr. INHOFE. That is interesting.

Let me ask just one more question, if I might, because I haven't heard it in this debate actually coming up. I had an experience. Over the Easter recess, I went on a missionary trip over to west Africa to Togo, Nigeria, Benin, and that area. I thought it was the appropriate thing to do, to go over and talk about Jesus on the Easter break.

The international publications I saw when I changed planes in Paris going down over the Sahara Desert and then again coming out of the Middle East, had articles—this is, what, 2 weeks ago, 3 weeks ago—articles on what a great boom our tobacco bill in this country is going to do for their tobacco industries. They were referring to both legal and illegal, I suspect. But has anybody looked at the effect that this would have on the economies of those areas where they would be direct beneficiaries of what we do here if this thing should pass?

Mr. ASHCROFT. I think it is clear that there has been inadequate examination. This bill hasn't had the kind of scoring that normally attends a bill. This bill was rushed and changed. The ink was not dry on the changes when the bill was submitted.

Virtually no one had read the entire bill when it was offered. And we are now in this debate on the bill. And that is why I am willing to take the kind of time we are taking to discuss it.

It was suggested yesterday that this massive tax increase would be concluded, that we would know what we were going to do on it because they were going to have a motion to table, and that motion to table would end this debate.

I just do not think when you have this kind of massive Government—a 17-agency creation; $868 billion—that you rush through. I think it is clear we need to have the kind of thorough discussion, discussion that would allow us to debate the issues.

Mr. INHOFE. I thank the Senator for yielding.

Lastly, I just ask if your office has received the same thing our office has. We count letters when they come in and we read these letters from people who have picked up notions on this thing. And they are running right now in Oklahoma to my office—this is the district offices in Oklahoma as well as the office here—about 10 to 1 against this massive takeover by the Federal Government. And one of the major concerns they say is, ''What's next?'' You know, it is tobacco today. Then alcohol? Then fatty foods? Or what is going to be next?

Mr. ASHCROFT. Fatty foods I am worried about. I eat so many of them and I do not want them to take away burgers.

(Mr. HAGEL assumed the chair.)

Mr. INHOFE. The last thing I mention is, I read an article in the Wall Street Journal, I think last week, that talked about the nations that have actually had this happen, causing great increases in taxes to try to stop that particular habit—Denmark, Sweden, so forth—and that the result has been they have had to repeal those tax increases in almost every case.

Are you aware of that?

Mr. ASHCROFT. Yes. The debate this morning really helped, I think, to clarify the issue, that in England, for example, it is said that half of all cigarettes are sold on the black market.

Mr. INHOFE. Yes.

Mr. ASHCROFT. Senator HUTCHINSON just asked me a very important question. If we drive things into black market sales, then States which have been relying on reasonable tobacco taxes as a funding stream—if the tobacco sales go into the black market and underground, we actually make it very difficult for those States to continue with their programs because we will deprive them of the same stream.

America has seen the kind of chaos that can come to law enforcement when we condition people to do things that are illegal because Government gets so invasive and heavyhanded.

And if we condition people to be involved in illegal activities, where we have inordinate unjustifiable taxes that are imposed on consumers, and we prepare them and teach them to be involved in the black market, it is a lesson which we will regret having taught for a long, long time.

Mr. INHOFE. I applaud the Senator for taking the leadership to stop this from happening. And I appreciate your yielding for questions.

Mr. ASHCROFT. I thank the Senator from Oklahoma and really appreciate the questions which he propounds because they get to the heart of the matter. And I appreciate also the fact that you have relayed your experience with your town hall meetings.

No other Senator in the U.S. Senate, I would venture to say, no other public official, deals with the public as intimately and aggressively as you do. You

know, five town hall meetings a day, hopping from airport to airport; of course no other Senator that I know of has flown a light plane around the world on his own. I know that JOHN GLENN has orbited the Earth. But you have stopped and talked to people most everywhere and certainly in Oklahoma.

So I thank you for bringing that particular item to our attention.

Mr. INHOFE. I would only respond by saying that I think I have told Senator GLENN, I may have more hours than he has, but he has a lot more miles.

Mr. ASHCROFT. I am sure that is the case. I thank the Senator from Oklahoma.

I just want to say this question of the black market is a very serious question.

If we aggravate the already tender situation which exists regarding the smuggling of cigarettes, we could literally create a very serious problem. And the problem not only relates to the loss of revenue to the Government, but it is also an issue that would and could be a problem which moves the black market in cigarettes from the sort of commercial area where black market cigarettes now are sold to stores and then the stores illegally sell cigarettes that have not had the right taxes paid on them. It could move it into the general population.

If we start teaching young people that they can buy cigarettes cheaply on the black market, and they start to do things like that, it is, in my judgment, a very, very, very serious problem in terms of what we have taught and what we have conditioned in this culture.

Furthermore, if we move the black market into sort of a retail situation—and I have some awareness of this because when I was Governor of my State, we had a significant cigarette tax, at least compared to neighboring States. There is some tobacco grown in Missouri, but very, very little. But we border on serious tobacco States, like Kentucky and Tennessee. And those States had very low tax rates. We had substantially higher tax rates. There were lots of cigarettes that came across the border of our States, but they really were not sold on the retail market. They were sold to folks who would sell them in stores with phony tax stamps and the like.

But if we get to the point where we are going to have black market cigarettes sold in retail, and we condition young people to start saying that ''I can break the law here,'' there are two consequences. One, that is a very bad thing to get young people into. Two, those who are willing to break the law, to retail market substances which are illegal to sell to youngsters, probably will be selling other substances. So they may well be selling drugs, and they may say to the youngsters, ''What do you want? I have cigarettes. I have marijuana. I have drugs.'' And if you drive the price of cigarettes up substantially, it begins to make the price differential far less. So I have very serious reservations about what we might do in terms of a black market.

Mr. ENZI. Mr. President, would the Senator yield for a question?

Mr. ASHCROFT. I would be pleased to yield for a question to the Senator from Wyoming.

Mr. ENZI. Thank you for yielding.

I appreciate the vast amount of knowledge that you have shared. And I have actually a series of questions that I would like to have answered in regard to the bill. And like I say, I have been very impressed at all the knowledge.

Mr. ASHCROFT. I hope I can answer these questions.

Mr. ENZI. I recognize you do not have a laptop in which you can store all this vast information; you are using strictly the computer there. But I have some concerns, and I would like to know what you think on these concerns.

When I was out in Wyoming this last weekend, one of the State Senators there brought me the question—he said, ''Now during the last session of the legislature, we looked at putting a 15-cent a pack''—that is 15, not 50—''cent a pack tax on cigarettes in our State. And that would raise $8 million a year for us. And now I hear Congress talking about''—and at the time his knowledge was only on the $1.10, not the much higher $1.50; it was $1.10 a pack—''and out of the $1.10 a pack,'' which of course will be levied on Wyoming just the same way the 15-cent a pack would be levied, ''our State will get $6 million.''

He is a little bit concerned about where all the revenue might be going. How could there be a miscalculation of that magnitude on the amount of funds that would be delivered by this? He has done extensive research into it. And I have to say that causes some concern for me, too—when 15 cents a pack will produce $8 million and $1.10 will only produce $6 million.

I guess maybe you might interpret that the $1.50 increase is to bring that up to $8 million for us. But that sounds like a poor way to do business.

Could it be that the $1.50 costs so much to collect, coming back here, so much gets held by the bureaucracy, that we are only going to get $6 million bucks out of $1.10?

Mr. ASHCROFT. I would venture to say the State of Wyoming does not have a foreign aid program under the guise of the cigarette tax. So you will not have a program to develop an awareness overseas of the costs of smoking.

One of the things that is in the international aspect of the bill we have here is that money will be taken, hundreds of millions of dollars every year will be sent to help foreign governments trying to decide what the cost of smoking is in their culture. I just don't think it is very likely that the Wyoming House of Representatives and Senate, which you presided over at one time, would be making that kind—the answer is, that is just a small part of what we are doing here.

I admit the foreign aid is not a big part of this bill, but there are 17 new boards and commissions in the Federal Government, specific and categoric programs, and this isn't designed to provide income to the States. This is really a program that will provide income to the Federal Government. It will provide massive amounts of income to trial attorneys. It will provide serious income to tobacco farmers. If the one aspect of this bill goes through, it will give them about $18,000 an acre for their allotments. Of course, farmers don't even own the allotments. In a lot of cases, it is owned by someone else. Most of the lands could be bought for far less than $18,000 an acre.

We are in a situation where this is a Federal measure which is going to support everything from foreign aid to trial lawyers and Federal programs. It is no wonder it won't do Wyoming good.

Mr. ENZI. I need to ask how people would expect me to support $1.10 a pack when the State legislature looked at 15 cents a pack totally dedicated to health and turned that down.

This one, as you mentioned, has all of these other ramifications. I know that one of the ramifications is to cut down on teen smoking. So I have addressed that in a number of trips I have made to the State. I tried to visit schools on Friday, and I am in Wyoming most of the time. I wonder how $1.10 is going to cause any concern. After all, kids will pay $50 for a pair of tennis shoes—I actually said $50 to see if people were paying attention. They will pay $150—I was in the shoe business for 28 years—$150 for a pair of tennis shoes. The parents can't afford it, but the kids can. In talking to these kids, they seemed to think that $1.10 a pack would be a deterrent for a few days until they realized how they were going to raise the other $1.10 a pack and maybe smoke one cigarette less, but probably not smoke cigarettes less.

These kids asked me, and I want to ask you, how the price of a pack of cigarettes going up will deter smoking when the cost of marijuana is extremely high and there is no indication of it going down and there is still an increase in marijuana smoking. That is all black market. So if we think we are doing an elimination of the black market, that creates a great deal of concern to me, and apparently to you. I ask the Senator to give me some kind of an indication of whether the Senator thinks that price will make a difference.

Mr. ASHCROFT. I thank the Senator from Wyoming for the question. This was the subject of a very serious set of questions that were propounded by the Senator from Utah earlier today. He literally went through the studies that have been presented by the administration and the studies that are being used to support the demand for a $1.50-a-pack increase, the demands being

made by Senator KENNEDY in his proposal. Those individuals are not satisfied with $1.10 a pack. They want to take it up to $1.50 a pack as a tax increase.

Frankly, when you look at all the data, you can look at part of the graph and it looks like it reinforces what is being said about smoking going down when you increase the price. Price—CBO seriously questions price in terms of whether elasticity of demand depends on price. They raise a serious question about that, and they cite studies to challenge it. Of course, there isn't any elasticity in demand when a person is addicted.

So for the poor people of America who have been smoking and are smoking, we are basically going to trap them, so that a poor person, even at the $1.10 level which is in the bill now—Senator KENNEDY wants to move it to $1.50 per pack—at $1.10, that is two packs a day at $800 a year. Poor people cannot afford to take that out of the family budget. You sit around the kitchen table and say: What are we going to be able to do this year? Can we get the new refrigerator? We need this, that, or the other.

If we walk in and say, the first thing we have to do is take $803 out of your budget, it restricts the capacities of families to operate. So not only are we threatening to do something that could hurt governments but we will undermine the capacities of families to support themselves.

I think it is tragic when resources are consumed in smoking. I have never smoked cigarettes. I don't believe it is a good investment. But people are free to do that. I am not here to tell them what their life is and how they can operate. But for us to simply say we will hit the low-income people of America with $400 if they are one-pack-a-day, $800 in new taxes if they are two-packs-a-day people, or if we are talking about what the Kennedy proposal is, to give yourself basically a 40-percent increase on that, it is an amazing bite that we will ask to take out of the disposable income of people.

Mr. ENZI. Let me ask another question that deals with this, particularly with the kids smoking, because we have been trying to get at this problem of kids smoking for some time now.

I know the Senator is as distressed as I am that 3,000 kids a day are starting this life-threatening addiction. Although I wonder if you know more about where those estimates come from, because as far as I can tell, they are estimates, as is the percentage, that this will drop. We are talking about a 60-percent drop in youth smoking, and I think that is based on Larry Summers, Deputy Treasury Summers, when he said a 10-percent increase in the pack of cigarettes would produce a 7-percent reduction in the number of children who smoke. We seem to be going with the theory that if you raise it high enough, it will get to zero. That doesn't seem to equate with anything else that is happening.

I ask the Senator if he has seen—probably not—the latest issue of the George Washington University magazine.

Mr. ASHCROFT. I have not.

Mr. ENZI. A magazine put out by a university. I am a graduate of that, so I think it is the premier university of the District.

Mr. ASHCROFT. I will not respond to that question with an affirmative, but I will respect the institution.

Mr. ENZI. The feature of this month's magazine is actually called ''Smoke Signals,'' and it is about the terrible rise in smoking on university campuses. Now we are above the teenage level. We are talking about a group who are more educated than other people. It would seem that they ought to know more about smoking than the others. Obviously they don't, because even though the rules of the university are increasing, the amount of smoking is also increasing.

They have done a fairly extensive interview session with students from the university to find out what the causes are, why it is going up. It ranges from rebelliousness to all-out addiction, to a number of other things.

I ask if the Senator would be willing to have the article from the magazine printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From GW Magazine, Spring 1998]

SMOKE SIGNALS

(By Jared Sher)

When it comes to smoking, America's colleges and universities have come a long way since 1877—the year Dartmouth forced its scholarship students to sign a pledge not to spend any money on liquor, tobacco, dancing or billiards.

Today, college students have the freedom to indulge in all of those. Increasingly, they're doing just that, especially when it comes to cigarettes and cigars. The recent rise in the number of students who say they light up has some educators and medical professionals fuming.

According to an annual survey of college freshmen conducted by researchers at UCLA, more than 16 percent of the nation's first-year students said they had smoked in the past year. While that's not quite an epidemic, there's concern because the 1998 mark is the highest in nearly 30 years. That 16 percent is a significant surge after the mid-1980s, when the percentage dipped into single digits for four straight years.

Not only are the numbers rising; they are doing so after decades of clear medical evidence that smoking can kill. Despite all the warning signs, America's youth are picking up the habit with little regard for the potential long-term health hazards.

Such is the case at GW as well. Although no studies have been conducted to determine the exact number of smokers, campus watchdogs believe the figure to be close to—and perhaps higher than—the national average.

Smokers remain a fixture in Foggy Bottom. Even though smoking is banned in all University buildings except residence halls, cigarettes are readily available from street vendors as well as the Marvin Center convenience store. And students—as well as faculty and staff members—can often be seen puffing away on the front steps of Gelman Library, or just while walking down the street.

So why do GW students continue a habit they know is dangerous? The reasons range from rebelliousness to an all-out addiction that is extremely difficult to overcome, especially in a high-stress academic environment. Most students acknowledge the dangers of smoking, but many say they can and will quit before the health risks become a long-term threat to them.

''It's the immortality issue. Young people don't think they're mortal,'' says Matthew Sokolowski, BA '97, education coordinator at the Jewish Historical Society of Greater Washington. Sokolowski started smoking when he was 10 or 11, having picked up the habit in the Boy Scouts. He thinks younger smokers often are ignorant of the risks. ''It's only people who are 45 or 50 getting sick, so you think, 'Oh, I can smoke as much as I want.' '' Now he admits he is addicted, and trying to quit is extremely difficult. Sokolowski has devised his own program for quitting, whereby he steadily decreases the number of cigarettes he allows himself to buy. ''I knew I wasn't going to be able to quit in college,'' he says, because the stress levels were simply too high.

That's been a problem for a number of GW smokers, many of whom say they started smoking simply to socialize, but now are stuck with the habit. While they all recognized the health hazards that are all-too-apparent these days, ''the addiction outweighs it,'' according to Zeid Sabella, a senior from Jordan.

''I'VE GOT TO QUIT''

''Every day you say, 'I want to quit, I've got to quit,'" he says, ''but you never do.'' He says smoking has taken its toll on him physically already, a problem he notices every time he tries to climb a flight of stairs and has trouble breathing. ''I can't even jog a mile anymore.''

Some students began smoking in high school or junior high just to fit in. Federal data show that the number of high school smokers is growing dramatically.

Other GW undergraduates, like sophomore Molly Bell, from Highland, Mich., picked up the habit almost by accident. ''I think it had to do with my mom. She said, 'You want to smoke, let's go get some cigarettes,'" Bell recalls. ''Then I just started after that, even though her point was to get me not to smoke, like I'd smoke so much I'd puke or something. It didn't work.'' She was 15 at the time; she has now been smoking for four years.

Once her parents realized their plan had backfired, they tried to get her to quit. They even put her on a nicotine patch. ''But every time I'd leave the house, I'd rip it off and put it on my dashboard,'' she says. Ultimately, she says, no physical remedy will work until the smoker is mentally ready to quit.

Still, Bell remains confident that she'll quit once she leaves school. ''I'm going to stop when I'm trying to conceive. At that point I'll be able to because I won't want to screw up my kids.'' One motivating factor: Her aunt smoked while she was pregnant, and when the baby was born, it had to be placed on a respirator.

''I can't imagine quitting, and I don't know if I ever will,'' laments 21-year-old junior Danielle Marcelli from Philadelphia. Marcelli first tried a cigarette when she was 15 and hanging out with friends. Now, she too is addicted and smokes one-and-a-half packs a day. ''I didn't think it was bad because my whole family did it.''

Tobacco companies and Congress are discussing legislation through which the companies would pay more than $300 billion to help gain protection from lawsuits. Speculating on the price hike that could accompany such legislation, Marcelli says, ''Sometimes I say that if they really do raise it to

$4 a pack, then I'll quit.'' But she reflects for a moment and changes her mind. ''I would probably get a job if I had to support it, if it came down to it.''

Her roommate, Angel Fischer, tried her first cigarette when she was just seven years old. She says that she is not addicted, but she smokes anyway. She doesn't worry about health risks, especially since she says she can quit at any time. ''I think about it with my father, I don't think about it with myself, because he's older and he's got that horrible cough,'' Fischer says. ''I don't think I'll ever get to that stage. I just have them when I'm out late.''

Fischer adds that the stress of a school environment helps explain why so many students smoke. ''You can ask the same questions about drinking or drugs or sex. Especially in college with all the stress. Around midterms, it's like give me cigarettes now!'' she says.

Senior Anne Henderson, 21, says she is ''surprised how many young people do smoke, considering they know the dangers.'' Nonetheless, she has been smoking on and off for five years. ''It has to do with lifestyle. I do it on a social level. A lot of social activity revolves around smoking. It does calm my nerves, especially when I'm stressed out.''

She too is confident that she'll be able to quit when she graduates. ''I'm not worried about when I'm 80,'' she says.

A SURPRISING INCREASE

''We feel like we've been seeing a lot of smoking on campus,'' says Susan Haney, outreach coordinator for the Student Health Service. ''It's alarming to see an increase.''

Experts agree that it's surprising to see increasing numbers of people taking up a habit that any doctor will tell you has a good chance of killing you. They also agree that two factors impede efforts to stop smoking before it starts among teenagers in America's junior high and high schools.

First of all, ''young people see themselves as impenetrable fortresses, believing that they will live long and prosper,'' according to LeNorman Strong, GW's assistant vice president for Student and Academic Support Services' Special Services. ''Their sense of being invulnerable is a major challenge to educating them to make safe and healthy choices of lifestyle.''

Secondly, *messages regarding the dangers of smoking are not reaching enough children.* Too often, the content of a message is aimed at getting people to stop smoking once they have already started. Not enough attention is being paid to preventing people from taking up the habit in the first place.

''*A lot of the education has been geared toward adults, not youngsters,*'' says Strong, who until last August was GW's executive director of campus life.

Moreover, children continue to see *television and movie personalities smoking on the screen,* an activity that does not go unnoticed when children decide to take up the habit Dr. Gigi El-Gayoumi, an associate professor of internal medicine at the GW Medical Center, cited a recent study that showed teen-icon Winona Ryder to be the actress who smokes the most on-screen, for example.

''These are very powerful images,'' she says, adding that the proposed tobacco deal between tobacco companies and the U.S. government has as one of its major focuses ''reducing teenage smoking and the targeting of advertising on teenagers.''

THE BANZHAF WAY: SUE THE BASTARDS!

These images may have contributed to the recent increase in smoking among teenagers. That, in turn, may mean more smoking on campus. ''We know that smoking had previously gone down considerably among older teens, but has been rising dramatically over the past two or three years,'' says John Banzhaf, a GW Law School professor who founded ASH (*Action on Smoking and Health*), a public interest legal action group. ''These are the people who are about to get into GW.''

Banzhaf, who has long been a thorn in the side of the tobacco industry, has used legal action, instead of persuasion and lobbying techniques, to win his battles against smoking. His motto, he says, is ''Sue the bastards.'' His actions are widely credited with leading to the ban on tobacco advertising on television and the ban on smoking on domestic airline flights.

He also was instrumental in the effort that ultimately banned smoking in every GW academic and administrative building in 1995.

At GW, Banzhaf has never hesitated to speak out. Once, he interrupted a student-sponsored movie in the Marvin Center because people in the audience were smoking in violation of law. Another time, he remembers eating lunch in the University Club, when he came across two fellow faculty members smoking in an area that did not have a sign permitting smoking. ''I almost had them arrested,'' he says. They left the club just before the police arrived.

Each time he fought for further restrictions, he met heavy resistance. ''And yet each time we've taken a step toward eliminating this thing, it's worked,'' he says. When the University decided to ban smoking in the vending machine area on the ground level of the Marvin Center, ''people said there'd be a riot if we did it.'' Suffice it to say there was no riot, and for that matter very little controversy, which only reinforces Banzhaf's argument.

''Suddenly people began to realize there isn't a requirement that you have to permit smoking,'' he says.

BAN SMOKING IN RESIDENCE HALLS?

Most GW student smokers support the smoking ban in buildings, claiming the health hazards are too well known to justify putting non-smokers at risk. Some, however, think the ban has gone a little too far.

''It's ridiculous,'' says Rany Al-Baghdadi, a senior from Syria. ''There's a lot of smokers. What would it hurt non-smokers to have a smoking lounge in the library or the Marvin Center? Someone that's complaining about second-hand smoke when he's 50 meters away from me—you know, get a life.''

Al-Baghadadi says that because it is so difficult to quit, GW should make some accommodation for smokers. ''If it were easy to quit, there wouldn't be any smokers.''

His friend Zeid Sabella, the senior from Jordan, disagrees, ''One thing I am for is choice. A lot of people don't like smoking. For example, I don't like smoking in my bedroom. I stinks up the place.'' Sabella thinks it is entirely justified to keep smoking out of campus buildings.

Sandra Falus, a sophomore from Hungary, thinks so too. ''I know people who used to work in the Marvin Center Newsstand when that area was the smoking section.'' She says her friends had to quit their jobs because they suffered from exposure to second-hand smoke. She adds that since most smokers know what they are doing is unhealthy, they don't feel discriminated against when they have to smoke outdoors.

Molly Bell says: ''As long as they don't ban it in the dorms, there won't be an outcry.''

In fact, the last bastions for GW smokers have been the residence halls, which remain islands of smokers' rights amid a sea of restrictions. GW officials say the rationale behind keeping the housing smoker-friendly is privacy, and the differing rights of people in their homes versus their workplaces.

''There is regular discussion about banning smoking in residential rooms, and it is often generated by students,'' says GW administrator LeNorman Strong, but ''that's private space. While the University does have some rights as a landlord, we work hard to protect the privacy of students.''

Banzhaf is not certain that's enough of a reason to allow the behavior to continue. ''I'm sure if someone wanted to clean his bicycle with benzine in his dorm room, he wouldn't be allowed,'' he says.

As for the legality of a smoking ban in residence halls, Linda J. Schutjer, GW's assistant general counsel, is not confident it would survive a challenge by current residents. ''It's an issue of workplace versus where you live,'' she says, adding that a ban in the dorms would likely do nothing to stem the tide of smoking. ''It seems to me smoking is not against the law, and if people want to come here and smoke, there should be some accommodation made for that.''

Student Health Service's Haney, who is also a family nurse practitioner, agrees. ''I'm not really sure a ban is going to help. I don't think anybody's going to quit to come into a residence hall,'' she says, suggesting that students would sooner seek out off-campus housing than quit smoking.

Another area of concern to smoking opponents on campus is the Marvin Center convenience store, which sells cigarettes. Students are allowed to purchase products from the store using their meal cards. Although Schutjer says it is against policy to sell cigarettes on the meal card, it happens anyway.

Despite all the controversy, smoking has not gone away. Even in areas where it's banned, says Schutjer, ''I'm not saying people aren't smoking. They're not supposed to be. We still get occasional complaints.'' The University takes steps to stop violators that may range from suspension to dismissal. Recently, one employee of the GW Medical Center was dismissed when he refused to stop his workplace habit in the basement of the GW Hospital.

Smoking education lags significantly behind other areas, such as AIDS and alcohol-abuse education. Nevertheless, both educators and medical professionals at GW have committed themselves to renewed vigilance in helping smokers quit. Haney says that clinicians at the Student Health Service always make a point of asking about smoking when they take patient histories. If they come across a smoker, the clinicians make it clear that there are readily available resources—such as the patch—that can facilitate quitting.

''We try to make people aware that we're there for them. We don't want to badger them, but we don't want, by not saying anything, to let someone think we condone smoking or don't think it's a health issue,'' says Haney.

It's important for smokers to figure out for themselves why they smoke, Haney says. Only then can they find a successful method for quitting. She adds that Student Health is looking into reviving smoking-cessation programs here in a joint effort with the American Lung Association. Last Nov. 20, as part of the American Cancer Society's Great American Smokeout, Student Health offered ''Butts for Bubbles''—an exchange of cigarette packs for bubble liquid—at a table outside J Street.

Ultimately, Haney would like to conduct a thorough survey to find how many smokers GW has and what their demographics are—in other words, ''whom we should be targeting,'' she says.

''Smoking is something that needs to take priority.''

Mr. ASHCROFT. I ask unanimous consent that the article be printed in the RECORD.

Mr. ENZI. I was fascinated to note that one of the people interviewed in this, one of the professors at GW is the person who founded ASH, the Action on Smoking and Health group, that I know from my days as mayor of Gillette has been very active in discouraging smoking, and their advocacy has been on antismoking ads.

I ask the Senator if he reflects a little bit on what the effect of the antismoking ads might be. They went to ads; they went to billboards. I have a plastic sign in my office that thanks visitors for not smoking. They also had a number of very clever slogans. I am not sure whether the Senator might have heard them. Some of them were very disgusting and had people in disgusting situations that were smoking, all to curb, particularly, teen smoking. I think that has had some effect. It had some effect on members of my family. I think that it did help to cut down some of the teen smoking. But I would like to ask you what you think the effects on doing the antismoking would—how well those would work on particularly teenagers as opposed to, or in conjunction with—whichever way you would care to answer it—a rise in price of tobacco?

Mr. ASHCROFT. Well, I think there are ways to discourage smoking. I think the most effective discouragement is when parents work with their children, just like with drugs. I think that is the best way for parents to make sure their children don't smoke. Obviously, there are things that we can do in government to help. A number of States and local governments have literally made it illegal for youngsters to be in possession of tobacco, just like they have made it illegal for youngsters to be in possession of alcohol in certain settings. I think those are the options.

One of the things I say in response to your question—because the Senator addresses the issue of 3,000 a day—is that the 3,000-a-day figure, in my judgment, underestimates the number of kids who try cigarettes a day. I have heard estimates as high as 6,000.

What is interesting to me is that the drug czar, Gen. McCaffrey, indicates that 8,000 youngsters a day try illegal drugs. We are here with an administration that wants to impose a tax of $868 billion on basically low-income people in the United States to work on smoking, but there is a notable absence in this administration in terms of what it wants to do about drugs. The most eloquent thing this administration has been able to utter about drugs is, ''I didn't inhale.'' The second most eloquent thing was on MTV where the President said, ''If I had to do it over again, I would inhale.''

Now, when you have the President of the United States talking about inhaling drugs, I don't think that goes very far toward stopping people from smoking cigarettes. We have to be careful that we don't get our priorities out of whack so that we drive the price of cigarettes up or drive cigarettes into a black-market situation where they will be offered as part of a menu of illegal drugs, where students and young people in the culture might not only become acclimated and accustomed to dealing with black-market figures, which would be a very bad lesson to teach, but it would also, perhaps, introduce people to drug use as much as it does with cigarette use.

I firmly believe that cigarette use is deleterious, bad for your health. Frankly, everybody knows that. King James, the guy who directed the translation of the Bible hundreds of years ago, admonished the people of England that this stuff is bad for you, that it is not good for you, it is bad for your health. We have known it, and there are a lot of things that are true about cigarette ads. I don't approve of them and I don't like them appealing to our children. But let's also understand that most young people who start with cigarettes know it is not good for their health.

Mr. ENZI. Will the Senator yield for another question?

Mr. ASHCROFT. I would be pleased to yield.

Mr. ENZI. Mr. President, I am kind of fascinated that on our desks, every day throughout the session, we get a copy of whatever bill is being debated, even if it is the same one being debated the day before; and if we take it back to our office, another one miraculously appears the next day, in spite of the amount of paper involved with that and, as a plug for a computer, don't you think it would cut down on the amount of paper if we could utilize a computer on the floor? That is not really my question. This is a 753-page bill that is appearing on our desks. I know that you are aware that this isn't even the bill we are debating.

Mr. ASHCROFT. I am aware of the fact that this is constantly in flux. As a matter of fact, we talk about the absence of dry ink on so many things that we consider here. When you are talking about a $868 billion tax increase, I think we ought to at least see dry ink before we vote.

Mr. ENZI. Yes, I have to agree. I want to ask, since this is 753 pages, and there is another newer version that is 482 pages—

Mr. ASHCROFT. This is the newer version. This one isn't bound. I don't know how many pages we have here, but it would be a real task, and to rush through something like that would be a disservice to the American people, particularly those who would pay the huge increases in taxes.

Mr. ENZI. The bill we are debating is the 753-page one, which miraculously appears on our desks, even though the 482-page bill, which has significant revisions in it, isn't available to us without a special request, and this appears to be the official version. But whether it is 753 pages or 482 pages, it is a great deal for us to cover, even with all of the help of our staffs.

So I am curious as to whether the Senator feels that there is an adequate coverage of all types of tobacco done in this? We keep talking about cigarettes. When I was growing up, there was a period of time when my dad thought cigarettes were pretty high, so he rolled his own. It is kind of a western tradition. You get a little pack of Bull Durham and some cigarette papers. Today, people would probably think you were using illegal drugs if they saw you doing that. We are phrasing this in that form, anyway. People might go back to rolling their own. But they take this thin piece of paper and put a little dip in it—I watched him do this so many times, but I have not smoked—and then he put the tobacco in there and he had to lick the piece of paper and fold it over, and that thin paper would then stick, and it would have the semblance of a somewhat cruddy cigarette. I suspect that even though cigarettes are not healthy, they were probably more unhealthy. The advantage was that we saved the little canvas bag that it came in, filled it with sand, and used that as a sinker on our fishing lines in the canyon near our home and fished for trout. The tobacco bag worked well for catching trout.

It was years later that I learned what it was probably doing to his lungs and eventually did do to him. I wonder if you feel that this adequately covers all of the types of tobacco and places an equivalent tax on them. We talk about the black market, but what we are talking about here is a shift from one type of tobacco to another to get a lower price, and even some exclusions, apparently, for small manufacturing companies.

So is this just going to force people to ''unbundle'' their companies—that is one of the words we use around here—and form a whole bunch of small companies that manufacture this to avoid the tax? I watched people work loopholes on tax bills when I was the chairman of the Senate revenue committee in Wyoming. I knew when we were holding hearings that there was someone out there who, at the moment we were debating the bill, already knew the loophole and they were anxious to go out and benefit from that. They weren't going to share that with us.

So do you feel there is going to be some kind of a shift done on this to the other kinds of tobacco as well as to the black market?

Mr. ASHCROFT. The Senator from Wyoming asks a very, very important question. Frankly, it is a question to which I do not know the answer. We are still dealing with a bill that is in the process and, obviously, if you run the price up on one kind of smoking, you may be encouraging another kind of smoking—whether you are encouraging cigarettes bought on the black market, or whether you are encouraging a roll-your-own variety. I remember those slogans that used to be used, like ''save your roll and roll your own.'' But you wouldn't make a real

savings in your roll if there was a disparity in the price here. My main concern has been that this is not a bill that has much promise to be effective.

You know, the administration, as late as 1996, said they were going to cut tobacco smoking in youngsters by 50 percent in 6 years, and they weren't going to require any price increase. So they were going to be able to cut it in half. Now they don't expect to cut it in half, but they are going to get $868 billion over the next quarter century out of Americans' pockets. I think that is particularly onerous.

You mentioned the relationship of cigarettes and the construction of them with one's own hands, and that obviously makes people think of the marijuana cigarettes that people roll on their own. Frankly, the drug problem is one that bothers me because I think we are inordinately, and perhaps inappropriately, focused, at least to a degree not warranted, on cigarettes rather than on drugs.

As I indicated, General McCaffrey indicated that there are at least, according to his numbers—and the numbers have been tossed around—more kids are trying drugs than they are trying tobacco. I think we ought to be careful that we don't aggravate that problem.

Mr. ENZI. Mr. President, will the Senator yield for another question?

Mr. ASHCROFT. Yes.

Mr. ENZI. Mr. President, I am anxious to know and hope that the Senator from Missouri has the answer to how this 753-page bill or 482-page bill that we haven't had time to complete the review of yet—I realize the Senator may not have the answer to this and what kind of emphasis it places on the family as playing a role in reducing tobacco use. I have seen the statistics. Whether it is drugs or tobacco, the biggest influence on whether kids use them are the parents and the attitudes that the parents have to them. And the parents, even if they smoke, have a good influence on reducing teen smoking or youth smoking by saying that even though they do it, it hurts them; that it is not right, it seems to me.

The bill that is really trying to get at the heart of the problem, and if the statistics all point to the family emphasis, the family attitude, the family direction being the way to reduce smoking, it seems like this bill ought to have something in there that strengthens the family and strengthens their role in doing this. It provides a mechanism for almost everything else in the world, including things that are not health related. So it seems to me like there ought to be something in here that says something to families, ''You can make a difference. How do we get you involved?'' I can't find that. I want to know if the Senator from Missouri is able to find it.

Mr. ASHCROFT. Frankly, I haven't found it. I thank the Senator from Wyoming for asking the question. The impact on families here is pretty serious. But it is financial.

Basically, it is to say that for a three-pack-a-day family there is a minimum of $100 a month that goes out of their expendable income, in addition to the taxes. That is not just the cost for smoking cigarettes. That is additional taxes, $100 a month for three packs a day; that is, if you take the committee's $1.10 range.

My amendment would strip that $1.10 rate out because I don't think it is appropriate to punish people the way the tobacco companies have done. If you go with Senator KENNEDY's proposal, it is a $1.50-a-pack rate. You get to the point of about $1,600 a year for three packs in the family at $1.50. I think that really makes it not only tough for the families to do something about smoking, it makes it really tough for the family to do things about all kinds of other things, like clothing the family, feeding the family, providing shelter and transportation, health care, and other things.

Mr. KERRY. Will the Senator from Missouri yield for a question without losing his right to the floor?

Mr. ASHCROFT. I do.

Mr. KERRY. Mr. President, as the Senator knows, we have been trying to move this along in a fair-minded way. Three and a half hours ago I asked the Senator how long he thought he might be, and we were talking in terms of an hour or so. I know there have been a series of fascinating and very important questions posed in a spontaneous manner. But that said, I wonder if the Senator might be able to share with his colleagues what opportunities other people might have to debate this issue.

Mr. ASHCROFT. I thank the Senator for his question. I feel like I should be able to finish by 2 o'clock, providing I don't spend a lot of time responding to the questions of others. Most of my time on the floor has not been accorded to me to make speeches. It has been in responding to questions. I have to say it is probably better than had I been speaking because I find the questions to be very satisfying and very enlightening.

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Mr. ASHCROFT. If the Senator is talking about the opportunity to curtail debate and schedule a motion to table, that is one of the reasons I felt like I had to move to provide the kind of debate which I have provided, because without consultation, at least with me, about a timeframe for the debate suggested, there would be a motion to table. And that happened in the last issue I was seeking to discuss in the Senate. I purposely wouldn't allow individuals to cut off debate. There is a lot of interest in this measure. I will personally do what I can to wrap up my participation. I will limit the amount of questions to which I will respond and make time available for others.

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Mr. ASHCROFT. I think that is an appropriate question. There is almost a 50-percent increase in funding for the FDA. Or did the Senator say more than that? Frankly, I have every confidence that Federal agencies will spend the money you give them.

As I indicated, General McCaffrey indicated that there are at least, according to his numbers—and the numbers have been tossed around—more kids are trying drugs than they are trying tobacco. I think we ought to be careful that we don't aggravate that problem.

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Mr. ASHCROFT. I think that is an appropriate question. There is almost a 50-percent increase in funding for the FDA. Or did the Senator say more than that? Frankly, I have every confidence that Federal agencies will spend the money you give them.

Mr. ASHCROFT. I believe that he calls into very serious question the idea that price alone is a major factor, or a controlling factor. And he does so effectively by citing the kinds of information that the Senator has mentioned.

Mr. CRAIG. I have sat for well over an hour now this morning, listening to the colloquies, the questions, and the debates between the Senator from Missouri and the others who engaged him, concerned as we all are about teenage smoking, and concerned as we all are about what appears to have been a targeted effort on the part of some tobacco companies to increase teenage smoking. But the Senator from Missouri also cited a poll, as did the Senator from Texas, that indicates that amongst Americans the No. 1 issue with their teenage children is not smoking but drugs. Would the Senator from Missouri agree with that?

Mr. ASHCROFT. I am aware of the poll and I am aware of the concern. And I believe that is correct. I believe Americans are far more fearful that their children will be involved with illicit drugs than they are that their children might experiment with smoking.

Mr. CRAIG. That same poll said that only 3 percent of Americans recognize the use of tobacco products as a concern for their teenagers. I think their greatest concern was that the most damaging would be drugs and other activities. Would the Senator from Missouri agree with that?

Mr. ASHCROFT. I think the poll was very clear about that: 39 percent cared about drugs; 3 percent said they were worried about smoking.

Mr. CRAIG. Does the bill that the Senator from Arizona brings forward deal with the issue of drugs or the misuse of drugs by our teenage populations in this country?

Mr. ASHCROFT. Not to my knowledge.

Mr. CRAIG. A great deal of assumptions suggest that teenagers would slow their smoking, or discontinue smoking, or not start smoking as a result of this bill. Yet, all of the other studies indicate that is probably not the case. The Senator from Missouri cites a concern for elevated activities in black-market sales; is that not true?

Mr. ASHCROFT. Yes. I have pointed out that not only would elevated activities in black-market sales result in perhaps even lower prices for cigarettes, but it could, as a matter of fact, be a way in which individuals are introduced to drug use.

Mr. CRAIG. Is it not so that countries that have increased the price per pack of cigarettes dramatically, and found that those cigarettes then moved into a black market, backed away from those taxes to bring those products back into the market and away from the illicit activity of the black market?

Mr. ASHCROFT. I think that has been a very clear experience. This precipitous increase in the rates of taxes on cigarettes has been a very sad experience by promoting black markets. Great Britain, or England, is said to have a black market of about 50 percent of all of its consumption. That is obviously something we don't want to teach or institute in this country. And other countries—Canada had a serious, very, very serious, bad experience with its precipitous rise in the increase of taxes on these kinds of products.

Mr. CRAIG. This Senator from Idaho is concerned that those who would sell black-market cigarettes are also now selling marijuana and cocaine to our young people. Does the Senator from Missouri have the same fear?

Mr. ASHCROFT. Obviously, if we were to take cigarette smuggling, which is now a commercial activity—the cigarettes are largely delivered to stores and are sold in the ordinary course of business. If we were to take that out of the commercial activity arena and put it into the retail activity, so that they would be sold on street corners by drug dealers or others who would sell contraband in a retail fashion, I think we threaten substantially the young people of this country with the introduction in an array of things that would be sold. Someone might offer: Now, you can either have cigarettes here or the marijuana here or these pills here, or like that.

So, putting cigarettes into that setting may be a very evil sort of introduction of those individuals to the drug culture in a way that they would not otherwise be exposed.

Mr. CRAIG. Let me thank the Senator from Missouri for yielding. I know he said he would like to conclude by 2.

I also appreciate his stressing the need for an expanded debate of this issue. I hope the leadership, and obviously the managers of the bill, recognize that and are now recognizing the importance that we debate this fully. I appreciate the responses of the Senator from Missouri to my questions.

Mr. ASHCROFT. I thank the Senator from Idaho for his valuable questions. I will now conclude. I have given my word to fellow colleagues in the Senate that I would try to be out by 2 o'clock, and I will. I thank the Senate for its accommodation.

Frankly, I appreciate this institution because it does provide a way for individuals who really feel strongly about this measure to be able to talk about it.

We have a bill. The Senator from Wyoming pointed out that it was not the one laid on the desk, because we have changes so rapidly. But here is the bill. There it is. This bill represents a $868 billion tax increase on the backs of America's poorest working families; 60 percent—59.4 percent. Let me not exaggerate. The estimate is 59.4 percent of the $868 billion—59.4 percent of the $868 billion from this measure is to be paid for by people earning less than $30,000 a year.

I believe we should reject it. This is a massive tax increase. This is a massive expansion of Government. This is an affront to the effort of families to provide for themselves. And I believe it is something that will be counterproductive. It invites all kinds of pernicious activity, including the black market, including the potential for increased drug utilization, including the loss of revenue to States when the black market emerges and no longer do those selling cigarettes pay even State taxes.

But at the very bottom of it all, this is a $868 billion tax to be shouldered by the hard-working families who earn less than $30,000 a year. That is inappropriate and to me it is unacceptable. I do not believe any of the lofty pie-in-the-sky—supposedly supported by studies—objectives really justify it. We should pursue those objectives in ways that are more likely to be successful and less likely to be destructive of the capacity of hard-working families to survive.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I ask unanimous consent that this side now be permitted to consume, it is 2 o'clock, maybe 1 hour 15 minutes, to be divided among Members on our side in order to have an opportunity to debate the bill.

The PRESIDING OFFICER. Is there objection to the request?

Mr. MCCAIN. Reserving the right—I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts will be recognized to control the time for 1 hour 15 minutes under his control.

Mr. MCCAIN. Will the Senator yield to me?

Mr. KERRY. I will be happy to yield to my friend from Arizona for his purpose.

Mr. MCCAIN. I just say to my colleagues that after the 1 hour 15 minutes that has just been agreed to on the other side of the aisle, I intend to offer a tabling motion at that time. No matter what happens to that motion, then we would like to proceed to an amendment on this side which would be that of Senator GREGG. And then, following disposition of that, whether that is agreed to or not, we would then go to the Senator's side, back and forth, as we have.

Also, if my friend from Massachusetts will indulge me, I ask unanimous consent that a letter from the National Association of Convenience Stores be printed in the RECORD, part of which says:

NACS, the National Association of Convenience Stores, is very pleased that we have reached an agreement with your committee and others involved in the process and NACS will not object to the Senate's passage of S. 1415.

So, obviously, the National Association of Convenience Stores have a different view of this legislation than the Senator from Missouri.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NACS,
Alexandria, VA, May 18, 1998.

Hon. JOHN MCCAIN, Chairman,
Hon. ERNEST F. HOLLINGS, Ranking Member,
Committee on Commerce, Science, and Transportation, Dirksen Senate Office Building, Washington, DC.

DEAR SENATORS MCCAIN AND HOLLINGS: The National Association of Convenience Stores (NACS) is writing to express our thanks and appreciation for addressing our primary concerns surrounding the ''National Tobacco Policy Youth Smoking Reduction Act,'' (S. 1415) which is being considered this week.

As you know, NACS first expressed opposition to S. 1415 because it would have given FDA expansive authority to prohibit tobacco sales by specific categories of stores. This authority was so broad, that many small businesses, who have themselves had no record or history of unlawful sales to minors, could lose the ability to sell a legal product. Our second concern was that the legislation would exempt certain tobacco retailers from all point-of-sale restrictions thereby placing traditional retailers, such as convenience stores, at a serious competitive disadvantage.

Over the last several weeks we have had an opportunity to meet with your respective staffs and discuss alternatives to these issues while also ensuring that we reach our common goal—reducing underage consumption of tobacco by minors. NACS is very pleased that we have reached an agreement with your committee and others involved in the process and NACS will not object to the Senate's passage of S. 1415. NACS will also communicate this message to all our members as well as allied trade associations that have expressed similar concerns.

Thank you again for your willingness to work with our industry on these very critical issues.

Sincerely,

MARC KATZ,
Vice President, Government Relations.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

AMENDMENT NO. 2422

Mr. KERRY. Mr. President, we have now been listening for a number of hours to the fundamental arguments in opposition to the amendment by the senior Senator from Massachusetts. Before yielding to colleagues who are not at this moment here, let me take a moment to say a few words about it.

I think any individuals listening to this debate, if they are not aware of some of the history of the Senate or the history of how issues fall on either side here, might say, gee, that is a pretty good point.

The Senator from Missouri suggested that this is a big price increase, and it is going to hurt the poor. I simply ask those listening to this debate who measure these things to think about the history of who has defended the poor people and who has defended the interests of the working families of this country.

It would be absurd to suggest that the senior Senator from Massachusetts, who has been the champion of the minimum wage, the champion of health care for children, the champion of education for people who don't have access to it, who has consistently fought to protect the interests of working families and of the poor, is somehow now doing something that is totally contrary to those years of commitment and record.

Yesterday evening, the Senator from Missouri held up a chart of all of the tax increases that have passed in recent years in the Senate. It is interesting, because if you look at every one of those tax increases, there was an enormous difference, like night and day, between who was protected by Senator KENNEDY and the Democrats on this side of the aisle and who was protected by the Republicans.

That is not the debate today. I don't want to go back through that entirely, except to say that the record is absolutely clear that in every one of the tax proposals of our friends on the other side of the aisle, people at the upper-income level made out better, and it was Senator KENNEDY and Democrats and others who fought to protect the working American. It was only after our efforts in the major budget agreement of last year that a single mother earning $40,000 managed to get even some tax benefit, and that tax benefit went from zero to $1,000 because we stood up and fought for that person.

That is not the fight today, except, Mr. President, to the degree that we are talking about where some people are coming from. We are talking about the lives of children. That has been lost in all of the debate over the last 3½ hours. We are talking about the lives of America's children. We know to a certainty that 6,000 kids will try cigarettes every single day, 3,000 of those kids will continue to smoke, and 1,000 of those children will die early as a consequence of a tobacco-related disease. That is what we are talking about on the floor of the U.S. Senate.

It is an insult to suggest that the parents of working families or the parents of the poorest people in America don't care as much about their kids having access to tobacco as other families. It is an insult to suggest that they are happy with the charts that show over the last years, there has been an 80-percent increase among black and Hispanic, people of color, an 80.2-percent increase in their use of cigarettes in 1991, and in non-Hispanic and nonblack, it has only been 22 percent. Why is that? I will tell you one of the reasons why, because the tobacco companies specifically targeted low-income communities. They went after them.

It is a sad part of the history of this entire effort that we now know, as a result of courageous attorneys general around the country who have sued the tobacco companies, who have gotten documents from the tobacco companies, we now know specifically about this targeting. We know that they targeted young people. They specifically set out to create addicts. What this debate is about is how you stop that. How do you get kids to stop smoking? How do you keep them away from cigarettes?

Again and again, in the last 3½ hours, we have heard Senators say, ''Oh, all it is going to do is raise the price. Why aren't they doing'' this; ''Why aren't they doing'' that; ''No cessation programs, no research.'' That is not true. That is just not true, Mr. President.

The fact is that in this legislation, there are a number of things that take place—cessation, research, counter-advertisements, penalties, licensing to

restrict youth access. It is unlawful for kids to buy the cigarettes, to possess the cigarettes. There is a lot of the strengthening of the law with respect to those things that will make a difference in kids' lives.

One other thing also makes a difference, Mr. President—how much it costs. Sure, kids spend 100 bucks, 150 bucks sometimes on a pair of sneakers, whatever, but it is usually not a cash transaction. It is usually a very specific transaction where parents have helped them to be able to do that. It is the cash they have in their pocket. It is the pocket change, pocket money, whatever they can scrounge up that they spend on something like a cigarette that they are not allowed to buy, and most of their parents don't want them buying. If the price goes up, their disposable income is less available to buy cigarettes.

We know this. This is not conjecture, as has been alleged. This is known as a matter of a number of studies, all of which show that for every 10-percent increase in the price of a pack of cigarettes, youth smoking will drop by about 7 percent.

So the 40-cent difference that we are talking about in Senator KENNEDY's amendment is not just 40 cents. It is not just money. It means that 2.7 million fewer kids will become regular smokers, and that about 800,000 or so over a period of years will not die as a result of that. That is what we are talking about. We are talking about lives here.

It is a matter of fact, also, that Dr. Koop and the Koop-Kessler commission and the Institute of Medicine have actually recommended an immediate $2 increase. I just ask anybody in America: Who do you believe? Do you believe Dr. Koop, the former Surgeon General of the United States, who had the courage to talk about these issues to the Nation, or do you believe the advertisements of people who have an interest of making millions and millions of dollars in the same way they have over the years, people who were willing to lie and lie and lie to the American people about what the impact was, even when they knew what the impact was; people who are willing to target our children and say, ''This is the next generation of smokers. We have got to suck them in. We have got to get them addicted.''

That is the fight on the floor of the U.S. Senate—who is going to protect our children and who is willing to let the companies off the hook?

The fact is the studies show that if you raise the price—now, is raising that price a little bit tough on some working folks who buy the cigarettes? The answer is yes. I am going to be honest about that. But you know, it is a lot tougher when their kid gets cancer, and it is a lot tougher when the country has to pick up the costs of 400,000 people a year dying as a result of this addictive substance.

It is a known fact that 86 percent of all of the people who smoke started when they were young, they started as kids. So if you want to reduce the cost of our pulmonary sections of our hospitals, if you want to reduce the cost of kidney-related tobacco diseases, or heart diseases, emphysema, cancer, the way you reduce the cost is by reducing the number of people who have access to it.

Now, isn't it strange, in Europe, even after we raise the price, it will still cost more for a pack of cigarettes in European countries than here? What do they know that we do not know? It seems to me that we ought to be responsible in this effort.

I know my colleagues are here now and want to speak. There is more to say. But I will reserve that time. I want to give them ample opportunity to be able to speak.

I yield 10 minutes to the Senator from Rhode Island and after that, portion it out.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Rhode Island.

Mr. REED. Thank you, Mr. President.

I thank the Senator from Massachusetts for yielding me time.

Yesterday, I had the privilege of attending a meeting, along with my colleagues, Senator KENNEDY, Senator CONRAD and Senator LAUTENBERG, with C. Everett Koop. And Dr. Koop had the right prescription for this aspect of the legislation. His prescription was quite simple: raise the price per pack by $1.50. As the preeminent public health official in this country, indeed in some respects America's family doctor, I believe his advice should be taken to heart by this body and we should move to support this amendment by Senator KENNEDY.

I am a very proud cosponsor of this amendment. Indeed, this is not a radical departure. Two committees of the Senate have already passed this amendment—the Senate Finance Committee and the Senate Budget Committee. They have done so on a bipartisan basis.

So what is at stake here is reaffirming and confirming what has been done already, what has been advocated by public health officials; and that is to raise the price per pack by $1.50.

Study after study has confirmed the fact that this will make an important impact on the rate of teenage smoking. But these studies are less dramatic than the words of people who probably know best the effect of price and consumption with respect to tobacco products—the wards of the industry itself.

In 1981, a Philip Morris internal document stated, and I quote:

> In any event, and for whatever reason, it is clear that price has a pronounced effect on the smoking prevalence of teenagers, and that the goals of reducing teenage smoking and balancing the budget would both be served by increasing the Federal excise tax on cigarettes.

That is not Dr. Koop. That is not the proponents of this amendment. That is the tobacco industry, coolly, carefully assessing what price does to teenage smoking. And it reduces it.

In 1987, another Philip Morris internal document lamented a decline in youth smoking caused by price increases, their price increases. The document stated:

> We don't need to have that happen again. So if the industry understands what will be affected by a price increase, we should understand also. But as I have indicated, research findings from various sources confirm the fact that a price increase will affect dramatically, decisively, and positively the decline of teenage smoking.

In listening to this debate, one is struck by the different approaches one could take to the goal of reducing teenage smoking. I think there are just two basic ways you can do that. First, if we are really sincere about reducing teenage smoking, we can create an elaborate regulatory bureaucratic structure with agents in every community who would monitor teen smoking, with reports that would go back and forth about teen smoking, with supervision of the distribution network, and all sorts of ways to do it. Or we could use the market—the most efficient device created by humanity to allocate goods and services—we could use the market.

That is what this amendment proposes to do. It simply says, if we raise the price of cigarettes, we will cause a decline in teenage smoking—efficiently, dramatically, and effectively.

So I argue, if anyone is a believer in the affect of the market on behavior, if anyone believes that price makes a difference—and I think that is the credo of both parties, but certainly the Republican Party—you would be in favor of a market-oriented approach like this to curtail teen smoking.

The only other alternative is that we are really not talking about curtailing teen smoking on the floor today; we are talking about something else. But if you believe that we are here to reduce teenage smoking, and you believe that the market can work wonders in terms of allocated goods and services, you should be supporting this amendment.

Now, as I indicated, the evidence is replete from many different sources of this effect. Reports from the Institute of Medicine's National Academy of Sciences, the National Cancer Institute, the Department of the Treasury, the Surgeon General—all these indicate the correlation between price increases and reduced teenage smoking.

A National Bureau of Economic Research study in 1996 found that young people were three times as sensitive to cigarette prices as older smokers.

A 1997 study in Tobacco Control found a strong relationship between cigarette prices and youth smoking, with each 10-percent increase in price resulting in a 9-percent reduction in youth smoking.

In its 1998 report, ''Taking Action to Reduce Tobacco Use,'' the Institute of Medicine of the National Academy of Sciences concluded that:

* * * the single most direct and reliable method for reducing consumption is to increase the price of tobacco products, thus encouraging the cessation and reducing the level of initiation of tobacco use.

A National Cancer Institute expert panel in 1993 reported that ''a substantial increase in tobacco excise taxes may be the single most effective measure for decreasing tobacco consumption,'' and they also concluded that ''an excise tax reduces consumption by children and teenagers at least as much as it reduces consumption by adults.''

The 1994 Surgeon General's report, likewise, indicated a real price increase would significantly reduce cigarette smoking.

All of this data, all of these studies, come to the same conclusion: If we want to reduce teenage smoking, if we want to use the efficient allocation mechanism of the market, we should raise the price to a significant level—$1.50 per pack.

Now, all of these experiences are academic. We can have a battle of reports and analysis back and forth here. But we have a real-life example:

In Canada, between 1979 and 1991, when real prices increased from $2.09 to $5.42, smoking rates among young people 15 to 19 years old fell from 42 percent to 16 percent while overall consumption of tobacco products also declined—a huge decrease.

Now, this was a big sample, the country of Canada. Real price increases and real dramatic results in decreasing teenage smoking. And we have to do this because we all know and we all recite repeatedly the statistics: 50 million Americans addicted to tobacco; 1 out of every 3 of these individuals will die prematurely from tobacco-related diseases; three-quarters of them want to quit smoking, but they cannot because it is an addictive substance.

The conclusion they have come to and we should is it is better that they never start. It is better that we take steps to curtail teenage smoking when there is a chance to divert a young person away from this addiction. We know that over 90 percent of smokers started before they were 18—again, a clarion call to us to take action to protect the youth of this country.

Each year, 1 million children become regular smokers. And, as I said, one-third of them will die prematurely. There are 5 million kids under 18 currently alive today who will die from tobacco-related diseases across the country.

It is disturbing, in my home State of Rhode Island, while smoking levels have flattened out with respect to the overall population, high school students seem to be smoking 25 percent more than they were just a few years ago.

We have to act now. We have to use the most decisive tool we have, and that is price increases, to affect the behavior of young people so that we will not see them needlessly die from tobacco-related diseases.

I support wholeheartedly and enthusiastically the effort by my colleagues to ensure that we have an increase that will do the job, that will have an effective way to curtail teen smoking.

With that, I yield back my time to the Senator from Massachusetts.

Mr. KERRY. How much time did the Senator from Rhode Island consume?

The PRESIDING OFFICER. There is a total time of 54 minutes 20 seconds remaining.

Mr. KERRY. I yield 10 minutes to the Senator from Florida.

Mr. GRAHAM. Thank you, Mr. President.

PRIVILEGE OF THE FLOOR

Mr. GRAHAM. Mr. President, I ask unanimous consent Miss Susan Goodman of my staff be accorded floor privileges during the consideration of S. 1415.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, we have just been subjected in the U.S. Senate to what I think could appropriately be described as a filibuster—4 hours of wandering discussion on an amendment that is now before the Senate.

During those 4 hours of that filibuster, 500 American youth under the age of 18 commenced their first use of tobacco products. One-third of those 500 American youth during that 4-hour filibuster who started to use tobacco will die, die prematurely of a tobacco-related affliction.

I have heard as I walked through the Chamber during this 4 hours mocking comments: Does anybody believe that we are really here to try to reduce teenage smoking? Does anybody really feel we are here to reduce teenage smoking? The answer is yes, we are here to reduce teenage smoking. That is the only legitimate reason that we can be here. Anyone who does not start their debate by a clear statement of their commitment to that objective has debased this national debate about the future of tobacco and the youth of America.

In 4 hours, 500 American youth have taken up smoking. Since May 20 of 1997, 1 year ago, the number is 1,095,000 American youth under the age of 18 have taken up the use of tobacco, and 365,000 of those American youth who have taken up tobacco in the last 1 year will die prematurely of a tobacco-related affliction. It is to them that this debate is directed.

Mr. President, the best public health advisers available to us have recommended that we set as a goal a 65-percent reduction in teenage smoking over the next 10 years. That is a challenging goal, but it is an attainable goal. It is a goal which is going to stretch us in the political community. It is going to stretch those in the health, the education, and especially the families of America to their best in terms of beginning to attack this scourge which, as my colleague from Rhode Island has just indicated, is a growing scourge of teenage smoking.

I believe that an important part of achieving that goal of a 65-percent reduction is to raise the price of cigarettes to as high a level as can be achieved without inducing other negative consequences, and to do that as quickly as possible. For that reason, I am a cosponsor of this amendment which would raise the price to what has been recommended by the public health community, $1.50 per pack, and to do so in 3 years. This is consistent with legislation which I have cosponsored with Senators CHAFEE and HARKIN.

It is not the only thing we need to do. We also need to have a comprehensive attack against teenage smoking. That comprehensive attack needs to include weapons such as restrictions on marketing and promotion—no more Marlboro Man, no more Joe Camel, appealing to our young people. It needs to include effective cessation efforts in the schools through public methods of communication. It needs to include look-back provisions which will surcharge the industry and individual companies if they fail to meet the nationally established goals for reduction of teenage smoking. All of those are important.

But the reality is that the single most important part of achieving the goal of a 65-percent reduction in teenage smoking is to get the price to as high a level as reasonable as quickly as possible. The best estimates are that 85 percent of the effectiveness in terms of reducing teenage smoking will come through monetary means. The other 15 percent will be the softer, more psychological efforts at education and restraint on promotion and advertising.

It is appropriate that we should be using the monetary means as the principal force to achieve the goal of a 65-percent reduction. Some of those who have spoken, either spoken directly or spoken through the form of very elongated questions, have inferred that there is something wrong with inserting the economic component into this debate. The fact is, there already is a substantial economic component.

As Members know, four States, including my own, have reached very significant settlements with the tobacco industry, in which the industry essentially admitted that their costs in terms of cost to treat people with addictions related to their use of tobacco are in the billions of dollars. This is not a cost-free decision if we do nothing. If we do nothing, we accept the fact that we will continue having the American taxpayers pay these enormous annual costs to treat the illnesses of people who have been induced to smoke tobacco.

It is also appropriate in this era of free-market economies, where we are looking to laws such as supply and demand rather than laws of regulation as a mean of affecting human behavior, that we insert as the cornerstone of this legislation a significant economic disincentive for people to utilize tobacco products, a disincentive which

we know will have its primary effect on younger smokers, smokers to whom discretionary income is more limited, smokers who are less physically addicted to the use of tobacco.

Mr. President, for those who will oppose this amendment, I issue this challenge. If you are not prepared to accept the goal of a 65-percent reduction in teenage smoking, then what is your goal and why are you prepared to support a lessened goal, recognizing that every percentage point below 65 percent means that you are consigning thousands of American young people each year to the scourge, the cost, the social issues related to the use of tobacco, and one-third of those who start the process will end up dying prematurely because of a tobacco-related affliction?

If you are not prepared to accept the 65-percent goal, defend an alternative. If you accept the 65-percent goal but are unwilling to accept those things which are necessary to achieve it, then what is your alternative? What will be the additional items that you will substitute for what the best experts in the public health community say is required to achieve that 65-percent goal?

We know that some of those noneconomic factors are already under assault, such as the promotion in advertising. So it becomes even more important that we adopt the amendment, as offered by Senator KENNEDY and others, which will raise the price to the $1.50 level.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GRAHAM. Also having expired during that 10 minutes I have been speaking, have been 41 American youth who have taken up smoking during the time I have been speaking; 14 of those will expire prematurely because of tobacco-related affliction. It is to them that this debate and this issue is dedicated.

Mr. KERRY. Mr. President, I yield 7 minutes to the Senator from North Dakota.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from North Dakota.

Mr. CONRAD. Mr. President, I have heard a lot of misinformation on the floor of the Senate this morning. I heard the Senator from Texas talk about an opinion piece in the Washington Post this morning saying that if this $1.50 a pack were passed, we would have a massive black market. The Senator failed to point out who wrote the opinion piece. That opinion piece, which I cited as being written by a Mr. Nick Brookes, was in fact written by Mr. Nick Brookes. But who is he? He is the chairman and chief executive officer of the Brown & Williamson Tobacco Corporation. Well, there is a credible source on this issue.

It didn't end there. I heard another of my colleagues suggest this morning that what has happened here is going to lead to a $3 increase in the price of a pack of cigarettes, even though the proposal is to add $1.50. How does that turn into $3? It is magical. They don't really explain it, but they say that the $1.50 that would be imposed by this Chamber all of a sudden turns into $3. Do you know whom they cite as an expert? It is fascinating whom they cite as an expert. They cite Salomon SMITH Barney. They cite their analyst.

It is very interesting to check the records on Salomon Smith Barney and see what they might have in the way of tobacco holdings. Do you know what you would find out? Salomon Smith Barney and the other source they have talked about this morning, Sanford Bernstein, together, own over 50 million shares of stock in the two top tobacco firms. Salomon Smith Barney owns 16 million shares of Philip Morris, 3 million shares of RJR. Sanford Bernstein, the other analyst quoted here, owns 30 million shares of Philip Morris, and they own 13 million shares of RJR. Do you think they are an objective observer here? I don't think so. I think they have a lot at stake financially in the outcome of this debate, and they are trying to influence that debate with this hocus pocus analysis—hocus pocus that turns a $1.50 price increase magically into a $3 price increase. It is nonsense.

The Treasury Department says that a $1.50 price increase translates into—surprise of all surprises—a $1.50 price increase. The FTC says a $1.50 price increase translates into a $1.50 price increase. Dr. Harris at MIT, perhaps the most objective independent observer—out of Government, out of industry—says that a $1.50 price increase translates into a $1.50 price increase.

Mr. President, the question of whether or not raising prices will reduce consumption is a very simple matter. There isn't an economist in America who would tell you that if you raise the price of something, the consumption won't fall. Every economist understands that basic rule of economics. The experts all agree that youth smoking will decline as prices increase. Dr. Chaloupka, who has done perhaps the most thorough study of all of the studies, concluded that a $1.10 price increase would lead to a 32-percent reduction. Dr. Chaloupka's work says that it will lead to a 33-percent decline in usage, and the $1.50 will lead to a 51-percent decline in usage. Those are estimates by economists.

We don't need to just look to economists, we can look to the public health community. Here I have a letter from Dr. Koop and Dr. Kessler, perhaps the two most credible sources on these questions. Dr. Koop, of course, is a former Surgeon General of the United States who served under a Republican administration, and Dr. Kessler is a former head of the FDA who served under a Republican administration and a Democratic administration. They say $1.50 a pack. The American Lung Association says $1.50 a pack. The American Heart Association says $1.50 a pack. The American College of Cardiology says $1.50 a pack. The American Academy of Pediatrics say $1.50 a pack. Those are the public health groups. They have weighed in and they have made clear that is what we ought to do.

But if you don't believe the economists, if you don't believe the public health community, maybe you ought to listen to the New York Times, what they have said. They have said in an editorial this morning that you ought to go to $1.50 a pack. It is right here. The New York Times of this morning:

> The bill, drafted by Senator McCain and approved by the Senate Commerce Committee, would raise cigarette prices by $1.10 * * * That amount should be increased to at least $1.50 per pack, which public health experts estimate is needed to cut youth smoking * * *

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CONRAD. I ask for an additional 2 minutes.

Mr. KERRY. I ask unanimous consent to add 5 minutes total time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KERRY. I yield 2 more minutes to the Senator from North Dakota.

Mr. CONRAD. Mr. President, if you don't want to listen to any of those folks, how about listening to the industry itself. This, I think, is dispositive on the debate. This is exhibit 11591 from the Minnesota trial. Myron Johnston, Philip Morris. Subject: Handling and excise tax. These are the industry's own words:

> The 1982–83 round of price increases prevented 500,000 teenagers from starting to smoke * * * those teenagers are now 18 to 21 years old. This means that 420,000 of the nonstarters would have been Philip Morris smokers. We were hit hard. We don't need that to happen again.

Mr. President, if there is any question in any Senator's mind as to whether or not increasing prices will reduce youth smoking, here is what the industry says, based on history. They say in 1982–83 when excise taxes were increased, 500,000 teenagers were prevented from starting to smoke. Those are the industry's own words. If you don't believe any of that, Mr. President, here is the experience in Canada. The price went up, youth smoking went down. The relationship is as clear as a bell.

So the question before this body is, Whom are we going to protect? Are we going to protect the lives of kids, or are we going to protect the profits of the industry? This analysis shows that if we go to $1.50, 2.7 million kids are going to be prevented from smoking. That means 800,000 lives will be extended and perhaps saved.

The industry says, well, it will bankrupt them. Here are the facts. If we go to a $1.10-per-pack price increase, their profits in 2003 will be $5 billion, according to the Treasury Department. If, instead, we go to a $1.50, their profits will be $4.3 billion. So the choice is clear—800,000 lives or $700 million in industry

profits. That is the question before this Chamber. Do we save 800,000 lives of kids, or do we protect $700 million of industry profits?

Mr. KERRY. Mr. President, I thank the Senator from North Dakota. I particularly thank him for his leadership on this issue.

I yield 5 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I am delighted to be here today to support this important amendment offered by Senators KENNEDY, GRAHAM, HARKIN, and others. I have worked closely with Senators BOB GRAHAM and TOM HARKIN for the past several months on the issue of a comprehensive tobacco bill. We came to one inescapable conclusion, which has been voiced by the Senator from North Dakota and a host of others this afternoon: A steep increase in the price of tobacco products over a short time is the single most important thing we can do to reduce tobacco use among children, or to deter them from taking up smoking.

How did we come to this conclusion? Well, Mr. President, we listened to the experts. Who are the experts? They are economists, public health researchers, and even tobacco industry officials. They have all concluded that price increases dramatically reduce smoking among children.

When I say experts, who am I talking about? Mr. President, there are plenty to choose from. The Institute of Medicine, the National Academy of Sciences, the National Cancer Institute, U.S. Department of Treasury, and U.S. Surgeon General have all documented the fact that increases in tobacco prices have been shown to decrease tobacco use among children.

Furthermore, Mr. President, economists from the Massachusetts Institute of Technology, University of Illinois at Chicago, University of Michigan, among others, have found a strong relationship between cigarette prices and youth smoking. Cigarette prices go up, youth smoking declines; cigarette prices go down, youth smoking increases. These institutions that I ticked off are hardly fly-by-night institutions.

If we doubt the expertise of these groups, why don't we take a look and see what the tobacco industry has said. I know the Senator from North Dakota has some quotes from the tobacco industry. I would like to supplement those with others.

In 1981, the Philip Morris documents show that company officials said the following:

''Since youth and young adult price elasticity are much larger than adult price elasticity''—in other words, the relationship between price going up, consumption down; price down, consumption up; those are what we call elasticities—''while adult smokers account for the bulk of cigarette sales, a substantial excise increase would substantially reduce smoking participation by young new smokers, but leave industry sales largely unchanged.''

In other words, it is the young people who decline. The old people, it does not affect them. That is a Philip Morris official saying that.

Mr. President, the evidence is clear. The most effective thing we can do to prevent our children from taking that first deadly cigarette is to increase the price quickly and steeply.

I urge my colleagues to join me in supporting the Kennedy amendment.

I thank the Chair. I thank the floor managers.

Mr. KERRY. Mr. President, I thank the Senator from Rhode Island. He has worked on these issues for a long time. I think his voice is one of both reason and enormous credibility.

I yield 6 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Thank you, Mr. President. I thank our friend for yielding this time. I thank the Senator from Massachusetts for his leadership on this, and the senior Senator from Massachusetts for offering this important amendment.

For those of you following this debate who are wondering what is happened here, we are 4 hours behind where we were supposed to be. There was a minifilibuster on the floor here when the Senator from Missouri took the floor and slowed us down. So we will have a backlog of amendments with the Memorial Day weekend coming in the hopes that we will not finish this bill. This is a time-honored Senate tradition. You have seen it earlier on the floor. We are now 4 hours late.

I have an important amendment to offer, and I hope to offer it today. And others want to do the same. I say to those who are joining in the minifilibusters that the clock may be on their side but history is not. They are on the wrong side of history in supporting the positions of the tobacco companies.

Pick up the morning paper and take a look at what the tobacco companies are telling Americans about why they oppose the McCain bill, and why they believe the legislation we are considering on this floor, which would increase the cost of a pack of cigarettes to reduce the number of children smoking, the tobacco companies say that is wrong. Are the tobacco companies credible?

Exhibit A, photograph A, eight tobacco company executives, 4 years ago standing before a House committee, under oath swearing that tobacco is not addictive. I rest my case about their credibility.

There are three issues for us to consider here in this debate.

The first, will price increase reduce teen smoking? It has been shown and needs to be shown again. We have a living example in Canada. As the price of the product went up, children smoking went down. We know that kids have less disposable income. You raise the price of the product, a few of them will say, ''I don't think I can afford this habit.''

That is what we are driving at. The experts come along and tell us that is right.

We have a statement from Frank Chaloupka, Associate Professor of Economics at the University of Illinois at Chicago who says: ''Based on this research, I estimate that a $1.50 increase in the federal cigarette tax''—Senator KENNEDY's bill, which I support—''implemented over 3 years and maintained in real, inflation-adjusted terms, will cut the prevalence of youth smoking in half.''

Will price increases reduce teen smoking? Clearly they will.

Second is a $1.50 price increase better than $1.10? It is a reasonable question to ask. I think we can see what happens when we deal with an increase of $1.50 over $1.10.

Take a look at this chart. If we had no change in the cigarette tax, this is basically what would occur. We would expect the same prevalence of smoking. If we had a change of a $1.10 increase in the cost of cigarettes, we can see a 34-percent reduction in the number of young people who are smoking. Now, take a look at $1.50. The conclusion is obvious; a 56-percent reduction.

So as we increase the price of the product, children stop using it, not only in economic models, but in our historical experience in Canada.

The third question is this taxpayer. That is a legitimate question.

I will concede that the opponents of this tobacco legislation say that this tax will necessarily hit lower-income Americans the hardest because they smoke the most. There are a lot of explanations for that, not the least of which is the tobacco industry, which over the years has really targeted those folks. Go into any inner-city area in America and take a look at the billboards and you will see block after block of alcohol and tobacco advertising. They believe that these folks and that income category are more vulnerable to become addicted to tobacco products. They have been successful in luring them.

So we can tax the product and it will necessarily hit those in the lower-income category. Is it fair for us to tax it? We generally asked Americans what they thought of this idea. I think you might be interested in the results. When a poll was done, this poll was done by a national organization paid for by the American Cancer Society and released a few days ago. The results are that a majority, 59 percent of Americans, favor a $1.50-per-pack increase, Senator KENNEDY's proposed increase, while only 39 percent oppose.

When they were asked what would you do with the money that is raised, what do you think is a reasonable

thing to do with these new tobacco revenues, they said additional health research on cancer, heart disease, and other tobacco-related illness.

That is in this bill. That is exactly what we are setting out to do: 82 percent to fund antitobacco education programs—they think that is a good idea—81 percent, programs that are directed toward children to get them to stop smoking.

So you see what we have here is an attempt to slow down the debate on an important piece of legislation that is literally historic.

Eleven years ago, the Senator from New Jersey, FRANK LAUTENBERG, and I embarked on a little project. I was a Member of the House at the time and he was here in the Senate. The two of us introduced and successfully passed legislation to ban smoking on airplanes. It was the first time the tobacco lobby lost on the floor of the House and the Senate in history. I was proud to be a part of that partnership with Senator LAUTENBERG, and am happy to serve with him today and to be part of this debate as well.

How far we have come. Let us not miss this historic opportunity to pass the Kennedy amendment to make certain that the $1.50 increase will truly reduce the number of kids smoking to make certain that the goal of this legislation to protect our children is one that is served. The tobacco companies have spent billions of dollars to lure and addict these children. Do we have the courage on the floor of the Senate to beat back the filibuster and to muster the votes to protect those children and their families? I think we do.

I rise in strong support of this legislation. I hope my colleagues will join me in voting for it.

I yield the remainder of my time.

Mr. KERRY. Mr. President, I thank the Senator from Illinois for his extremely articulate and compacted comments. I think it is the House training that permits him to come over and do that.

Mr. President, I yield 8 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Thank you, Mr. President. I thank the distinguished Senator from Massachusetts for allowing me part of the time in the remaining minutes for the debate on this amendment.

Mr. President, I want to say, first, just a quick note to my colleague now in the Senate, formerly in the House, Senator RICHARD DURBIN from Illinois, that at the time we worked on the smoking ban in airplanes, it looked like a hopeless quest. Everyone said, ''You will never get it by.'' We worked, we pleaded, we cajoled, and we tried everything that we knew.

But the odds on the other side were formidable against us. And finally we were able, through consensus, to develop a bill that took a 2-hour ban on smoking in airplanes with the promise that after a study of about 18 months we would reconsider and look at what the consequences were.

Well, it was overwhelmingly popular across the country. People began to demand that we stop smoking in airplanes altogether. Some said, ''How can you suggest that a 2-hour ban is all right but a 4-hour plane ride is full of smoke?''

And so it was by popular demand that we were able to get that kind of a ban in place. And I remind my friend and colleague, Senator DURBIN, in April, the month just closed, we had the 10th anniversary of the implementation of the smoking ban in airplanes. I can tell you, if there is one thing that gets you an applause line when you are doing a town meeting or meet in front of a group, when you say you were part of the authorship of the smoke ban in airplanes, people say thank you, thank you, thank you, and tell you tales about not being able to fly before, having respiratory problems, asthma, you name it, could not get in an airplane, and today they feel as if they have been freed.

Well, it is the same thing here. This debate, frankly, I must tell you, Mr. President, borders at times on the silly. We have to make a decision here about what we are going to do about protecting the health of our people from the ills caused by tobacco and nicotine. And we have come to a conclusion, a sad conclusion, that we cannot change the course of action. I say this, and I say it with terrible regret. We cannot change the habits of some 40 million-plus Americans who are addicted to tobacco and nicotine.

How they got started is a debate of and by itself, whether it was like it was with me in the Army when they used to give us in our emergency rations, in case we got separated from our units or had to depend on that for our sustenance—you always had a four-cigarette pack that you could call on in the event of an emergency when you needed a smoke. People were always waiting for the smoking lamp to go on so that they could smoke. It was encouraged. It was part of our psyche.

I can tell you also, as one who smoked for 20-some years, that stopping was no easy chore. It is not easy for the 40-plus million Americans who are hooked, stuck, can't get out of the tobacco habit. I haven't yet met anyone who smokes who hasn't said to me: You know, I stopped a dozen times. I once stopped for 3 weeks. I once stopped for 4 weeks. And then my brother had the car accident. Or, my team lost on the baseball diamond and we all started smoking and sitting around and moaning—here we are, can't get away.

But we can get away from it if we help our children not to start smoking in the first place, if we can stop them before they take the first puff, the second puff, or the 20th puff on a cigarette, because we know that the hook takes like that, like a fish after bait. And that is what the tobacco companies are doing. They are trolling. They are fishing with bait for more smokers.

They now have a campaign on, a campaign to deceive the American people, a campaign to say that they are just another business and that all these jobs of the people who work in the tobacco industry will be lost and the taxes will be lost. And meanwhile, what they do we wouldn't accept from anybody offshore who wanted to attack our America, kill 400,000 people a year, maim lots of others, render them at times unable to conduct their normal activities, lost productivity from their jobs, et cetera, and get a tax deduction besides—besides all other things, to be able to deduct the cost of addicting people, seducing children. It is an outrage.

Part of the campaign now is very interesting. I get mail, as we all do, from constituents. I have a letter here from a fellow named Jack McDonnell, Rutherford, NJ, which, by the way, is also the home of Tom Pickering, Deputy Secretary of State, a great diplomat.

Mr. McDonnell writes:

My family received a letter today from the RJ Reynolds Tobacco Company. The letter was addressed to my mother, and requested that she write to you protesting the proposed tobacco legislation . . . Unfortunately, she could not respond herself. She died this February after a long and horrible struggle against emphysema. My father, another ex-smoker, has been diagnosed with terminal lung cancer. My family understands the real costs involved here, and the cost of smoking far exceeds the costs of this legislation.

Now, what happened is the tobacco companies—and the companies I will read off here include Brown & Williamson Tobacco Company, Lorillard, Philip Morris, Inc., RJ Reynolds Tobacco Company, United States Tobacco Company. They send a letter out to people and they write:

Dear Mr.—

In this case, Robert Martin—

Since you registered your support for the proposed resolution reached last year between the tobacco industry and Government officials, private plaintiffs' lawyers, and members of the public health community, Washington has decided to press an agenda based on politics.

Politics, not reason.

Washington has been overtaken by politicians' insatiable desire to tax and spend.

Not by the insatiable desire of a mother and father to save the well-being of their child, not in terms of families who want to keep the family together and do not want to see grandpa with emphysema when he gets to be an age when he could still be functioning normally. No; they describe the insatiable appetite of the politician.

Well, Mr. Martin writes to me. They gave him a postcard to which he could affix a signature and send it to my office. And it says:

DEAR SENATOR LAUTENBERG: I strongly urge you to oppose any tobacco legislation that raises taxes, produces a black market in cigarettes, threatens nearly 2 million American jobs and expands the Federal bureaucracy.

Reject these things. And it is signed with his name. He wrote underneath that postcard. He sent me a sample of the postcard.

DEAR SENATOR LAUTENBERG: I received this item in the mail. As you can see, I was polled over the telephone by a machine. The material given over the phone was very misleading the way that it was presented. I am against smoking and like to see it abolished. I am a lung cancer survivor. Keep up the good work.

And it carries the signature of Bob Martin. He says:

If there is anything that I can do to be of help, please call.

And he lists his phone number.

So that is the kind of campaign that is going on with these tobacco companies, designed to deceive the public that this is a major kind of public interest campaign that the citizens are rising up against. Let them tell the real story. Let them talk about the 400,000 deaths. Let them talk about the lung disease.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LAUTENBERG. If I could have 1 more minute, please.

Mr. KERRY. Mr. President, I yield to the Senator an additional minute.

Mr. LAUTENBERG. We have to get on with the task of passing the $1.50-per-pack fee. I point out to you, Mr. President, and those who can see it, that the price of cigarettes in major industrial nations is quite a bit different than we have here in the United States: Norway, $6.82 a pack; Denmark, $5.10 a pack; United Kingdom, $4.40. Down we get to the U.S.A., with a current price of about $1.94.

We know one thing, Mr. President. We have heard it in testimony and statements given by colleagues in the Chamber that the way to stop teen smoking most abruptly, to give them a jolt so that they will bolt, is to raise that price and raise it quickly and sufficiently. And $1.50 a pack will do it. With the $1.50 a pack, we can see substantial reductions in the number of those who start smoking. And I hope that when the votes are counted here, people will look and see how their Senators voted to see whether or not they are going to stay with the tobacco companies or whether they are going to stay with the families and protect the children who will be dependent upon tobacco in the future.

The PRESIDING OFFICER (Ms. COLLINS). The Senator's time has expired.

Mr. LAUTENBERG. I yield the floor.

Mr. KERRY. Madam President, I believe I have about 20 minutes left; is that correct?

The PRESIDING OFFICER. There are 18 minutes 16 seconds remaining.

Mr. KERRY. I appreciate that. I yield 5 minutes to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 5 minutes.

Mr. CONRAD. Madam President, one of the key issues before this Chamber is the credibility of the industry. The industry has a long history here of telling us things that just aren't so. I think we can all remember when the industry executives came before Congress, and, under oath, told the U.S. Congress a series of things. One of the things they told us is: ''Tobacco has no ill health effects.''

This is from the industry's own documents, which is a reflection on that claim. This is a 1950s Hill & Knowlton memo quoting an unnamed tobacco company research director who said:

Boy, won't it be wonderful if our company was the first to produce a cancer-free cigarette. What we could do to the competition.

The second claim by the industry has been that nicotine is not addictive. Again, looking at their own documents, this is a 1992 memo from Barbara Heuter, director of Portfolio Management for Philip Morris' domestic tobacco business.

Different people smoke cigarettes for different reasons. But, the primary reason is to deliver nicotine into their bodies. . . . Similar organic chemicals include nicotine, quinine, cocaine, atropine, and morphine.

These are not my words. These are not the words of the public health community. These are the industry's words. And it doesn't stop there.

Tall tale No 3: ''Tobacco companies don't market to children.''

This is from a 1978 memo from a Lorillard tobacco executive. He said, ''The base of our business are high school students.''

High school students are the base of their business. Is there any wonder why we are here on the floor, talking about trying to raise prices to deter teen smoking to save lives? We have the evidence from the industry itself. And it doesn't stop there.

Tall tale No. 4 in this presentation: ''Tobacco companies don't market to children.''

This is from a 1975 report from Philip Morris researcher, Myron Johnston:

Marlboro's phenomenal growth rate in the past has been attributable in large part to our high market penetration among young smokers . . . 15 to 19 years old . . . my own data . . . shows even higher Marlboro market penetration among 15–17 year olds.

In this morning's New York Times we got more confirmation of where this industry stands:

Last year they estimated that the price increase in the June plan would cause sales to drop by nearly 43 percent among all smokers over a decade. But now that Congress is considering raising prices by twice that much, producers have turned around and said that higher prices would undermine, rather than help, efforts to reduce youth smoking.

This is a question of lives versus profits—lives versus profits. That is what the evidence shows. Madam President, 800,000 children will not suffer premature death if we go to $1.50-a-pack price increase. The question is, lives, 800,000 lives, versus profits of the industry, $700 million of profits. Because that is what the experts at Treasury tell us is the difference between $1.10 and $1.50-a-pack price increase. If it is $1.10, their profits in 2003 will be $5 billion. If it is $1.50, their profits are $4.3 billion—a difference of $700 million in profits to the tobacco industry in 2003 versus the question of the lives of 800,000 kids. This is the question before the Chamber, the lives of kids or the profits of the tobacco industry. I hope and expect my colleagues will vote to protect the lives of the kids over the profits of the tobacco industry.

I yield the floor and yield the remainder of my time.

Mr. KERRY. I thank the Senator from North Dakota again. How much time remains?

The PRESIDING OFFICER. The Senator has 13 minutes 9 seconds.

Mr. KERRY. I yield myself 3 minutes and then I will yield the rest to my colleague from Massachusetts.

We heard an argument here today that the price is too high and that we should not have this increase on the price of cigarettes because it is unfair to working people. I talked earlier about the impact on working people of not having this increase. But we heard quoted during the course of the monolog this morning a statement by the CBO. I would like to put in the RECORD the ''Congressional Budget Office Proposed Tobacco Settlement,'' a statement of April 1998, in which they say:

Based on a review of the empirical evidence, CBO concludes that price increases would have a significant negative effect on consumers' demand for cigarettes and, depending on the ultimate increase in price, could be a highly effective way of reducing smoking in the United States.

That is the Congressional Budget Office. Every single independent analysis—and I am talking independent analysis, not hidden analyses that are really one of the tobacco companies under some pseudonym. We are talking about the health experts of America, the people who do these under peer-reviewed and appropriate methods of independent study. They all suggest if you raise that price you will reduce teen smoking. I think every parent in America understands it. Every kid in America understands it. It is fundamental common sense as well as economics. If the price of something goes up and you have only so much money in your pocket, you decide differently how you are going to spend it. That is why we need to heed the advice of Dr. Koop, Dr. Kessler, all of these experts, and do this.

In addition to that, we have heard if you raise the price it will, in fact, increase smuggling. But the truth here again is something different. The Deputy Secretary Treasury, who is responsible for Customs and much of our antismuggling effort, said:

The creation of a sound regulatory system, one that will close the distribution chain for tobacco products, will ensure that the diversion and smuggling of tobacco can be effectively controlled, and will not defeat the purposes of comprehensive tobacco legislation.

Madam President, that is precisely what the Senator from Arizona and the

others who have worked on this bill have done. There is an effective regime in here for antismuggling. There is additional money for enforcement. There are additional requirements of markings on cigarette boxes. There is a licensing of company requirements throughout the distribution chain. There is accountability in the system. And there is the ability to enforce.

Moreover, most of the problem of smuggling recently has been American cigarettes going to Europe, because they have the higher price and we have the lower price. So this will, in effect, reduce that and create an equilibrium. I think most of those arguments have, frankly, been misplaced.

In the final analysis, this is a vote about our children. We all know the realities. The statistics have been thrown out again and again. We know how many kids start smoking every day. We know how many will die. We know to a certainty how many Americans are dying every year as a result of the habit they gained when they were kids.

If people want a tax cut, the greatest tax cut you could get is to reduce the burden of their health insurance, the burden—I yield myself 1 additional minute—the burden of all of the costs of our society as a consequence of this addiction, of this narcotic substance. It is incomprehensible that we should not make it fit into a comprehensive plan of control, which is precisely what is in this legislation.

So the vote here is very simple. You can vote to try to save the lives of children or you can vote on the side of all the money that is being spent in those advertisements to protect tobacco companies and keep their profits at the rate they are now at the expense of our children. That is exactly what the vote is on the Senate floor. Every expert says: Raise the price, you reduce smoking of kids. If you don't do that, then you wind up allowing those kids to continue to smoke, to continue to die, to continue to be addicted.

I think the choice is very, very clear. I yield the remainder of my time to the sponsor of this amendment, the senior Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I thank my friend. How much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 8 minutes 20 seconds.

Mr. KENNEDY. I yield myself 7½ minutes, if I could, please.

Madam President, I, first of all, thank our leader, Senator DASCHLE, who has been a strong supporter of this particular amendment, a strong defender of the health of the young people of this country and their families, and my colleagues who have all spoken here, and spoken very eloquently and compellingly.

I thank my friend from Massachusetts, our floor manager, JOHN KERRY, KENT CONRAD, the chairman of our task force, and FRANK LAUTENBERG, who is one of the great leaders on the issue of tobacco.

I am enormously grateful for Senator DURBIN's comments as a leader not only in the Senate now but also in the House of Representatives. And the eloquence of BOB GRAHAM earlier today and the compelling arguments that he made, I thought, were enormously convincing.

JACK REED of Rhode Island has been a strong member of our task force and a strong defender of public health.

TOM HARKIN, who has been in and out and has spoken frequently on this issue at different times, and many others, I can go down the list of so many in our caucus. I also thank our friend and colleague from Rhode Island, Senator CHAFEE, for his very strong support on this issue. I commend him for making his statement. He is someone who has been strongly committed to children on different health matters over the years. I thank him for his leadership, and I thank others of our Republican friends who voted for this in the Budget Committee, as well as in the Finance Committee.

We are very hopeful that in just about 20 minutes or so, when the roll is called, that a majority of the Members on both sides of the aisle, Republicans and Democrats alike, are going to vote with the American people, with the families of America and for the children of America.

There will not be a single vote in the U.S. Senate this year that will be more important to 275,000 children than the vote that we are going to have 20 minutes from now. We have the opportunity to make a major difference, a lifesaving difference for those 275,000 children.

The overwhelming, uncontroverted evidence that has been demonstrated during the afternoon of yesterday, last night and in the course of today is the fact that this kind of amendment that we are offering today that will have bipartisan support can make the greatest difference in the public health of the people of this Nation than any other action that we will take in the course of this year. That is a fact, Madam President. It is the most important vote that we will have this year on public health for the families of this country, and we will have it in just a few moments.

We don't have to go over the facts. We know what will happen if this amendment is successful. More than 750,000 young people will not involve themselves in smoking; 250,000 will not develop cancer of the lungs; 250,000 will not develop heart disease because of smoking; 250,000 of them will not develop emphysema, and the list goes on with diseases that result from smoking in this country.

Who are we talking about? We talk about children in this country, but let's be very clear about who those children are. We are talking about children who are as young as 12 years of age. Sixteen percent get started at 12 years of age; 37 percent are 14 and younger; 62 percent are 16 years of age and younger.

These are the individuals who are targeted by the tobacco industry. I listened to those crocodile tears of our colleagues on the other side of the aisle about how distressed they are about what is happening to working families. I give them reassurance, they will have a nice chance to vote for an increase in the minimum wage later on, and we will see how distressed they are about all those working families that they are agonizing about and so distressed about because this is a regressive tax.

The reason it is a regressive tax is because it is the tobacco industry that has targeted the needy and the poor and the working families of this country. It is the tobacco industry that is to blame. It isn't these families. How elite and arrogant it is for those on the other side of the aisle to cry these crocodile tears for working families and their children who are going to get cancer and they don't want to pay those taxes. Those working families care about their children. They care about them no less than those who come from a different socioeconomic background. How arrogant can you be? How insulting can you be to make that argument on the floor of the U.S. Senate.

Finally, Madam President, there can be no argument about what has happened over recent times, the explosion—the explosion—of use of tobacco by teenagers. It is a national disgrace. It is a national disgrace, and we are faced with these facts.

You can talk about smuggling all you want. You can talk about it all you want. These are the facts. This is the issue. Public health is the issue, the fact that it is an 80-percent increase among the black youths in this country, 35 percent by Hispanic youths, 28 percent of the white youths of this country, 32 percent year after year after year after year because of the policies of the tobacco industry. And we can do something about it on the floor of the U.S. Senate. The question is, Will we do so?

The question comes back, If we have to defend ourselves again, all you have to do is—there is one simple chart. We all had our statements and our charts. This one says it all. What this chart says very simply and is expressed very clearly by Philip Morris in a memo of 1987—listen to this:

> The 1982–1983 round of price increases prevented 500,000 teenagers from starting to smoke. This means that 420,000 of the nonstarters would have been Philip Morris smokers. We were hit hard. We don't need that to happen again.

There it is on the chart. There it is in 1982. This is the spike in the increase of price, and that is the drop in terms of teenage smoking.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. I will take 1 more minute.

I say this is demonstrated right here as clear as can be. What we have seen is, as the price has gone up over a period of years, teenage smoking has gone down, except in 1982 when we had the wars, then we had the drop, and we see that incredible spike and the leveling years with $5 billion a year in tobacco advertising, getting those children, holding those children, addicting those children in this country.

Madam President, now is the time. Now is the time to speak up for the children of this country. Now is the time to speak out about public health. We have not heard all morning long, all last night, all yesterday, we have not heard the opposition give the name of one notable, credible public health official who denies what we have stated hour after hour about the dangers for the children of this country—not one. They can't answer it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. That is why this amendment should be accepted.

Mr. ROBB. Madam President, I rise in opposition to the amendment offered by the Senator from Massachusetts. I do so fully supporting what the authors of the amendment seek to achieve—a reduction in teen smoking.

I, too, want to keep tobacco out of the hands of children. And I'm convinced that the best way to achieve that goal is to pass a reasonable, comprehensive tobacco bill. I have not abandoned hope that such a reasonable bill can still be achieved. But I am convinced that this amendment will make it more difficult to pass comprehensive legislation, and I therefore will vote against it.

For over a year, I have been saying that I believe a resolution of these issues that have dogged the tobacco industry are in the best interests of all concerned, including children, public health advocates, tobacco farmers, workers and their communities, the states and yes, the companies. To achieve the delicate balance that is a prerequisite to enacting such a complex bill, however, we need to remain centered. If the bill becomes too punitive in the one direction, or too protective in the other, we will fail ultimately to take advantage of this historic opportunity to resolve these issues.

In that same spirit, I intend to oppose other amendments which would, if adopted, make final passage of a reasonable bill much less likely.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 2427

Mr. KERRY. Madam President, I move to table the Ashcroft second-degree amendment No. 2427, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. GRAMM. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. To ascertain the presence of a quorum, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Madam President, I ask unanimous consent that at the conclusion of the vote on the tabling of the Ashcroft amendment, the Senator from Texas be afforded 10 minutes to speak, at which point the vote on whatever might occur.

Mr. KENNEDY. Reserving the right to object, will the Senator restate that please?

Mr. KERRY. Madam President, the request is that we would vote on the tabling of the Ashcroft amendment now, at the conclusion of that there would be 10 minutes for the Senator from Texas to speak, at which point the manager for the majority, Senator MCCAIN, would be recognized. That is my request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KERRY. I thank the Chair.

Mr. MCCAIN. The yeas and nays have been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question now occurs on agreeing to the motion to lay on the table the amendment offered by the Senator from Missouri, Senator ASHCROFT. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT (when his name was called). Present.

Mr. NICKLES. I announce that the Senator from New Hampshire (Mr. SMITH) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 72, nays 26, as follows:

[Rollcall Vote No. 143 Leg.]

YEAS—72

Abraham	Feingold	Lugar
Akaka	Feinstein	Mack
Baucus	Ford	McCain
Bennett	Frist	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Gorton	Moynihan
Bond	Graham	Murkowski
Boxer	Grassley	Murray
Breaux	Gregg	Reed
Brownback	Harkin	Reid
Bryan	Hatch	Robb
Bumpers	Hollings	Roberts
Byrd	Inouye	Rockefeller
Campbell	Jeffords	Roth
Chafee	Johnson	Santorum
Cleland	Kennedy	Sarbanes
Collins	Kerrey	Smith (OR)
Conrad	Kerry	Snowe
D'Amato	Kohl	Specter
Daschle	Landrieu	Stevens
DeWine	Lautenberg	Thurmond
Dodd	Leahy	Torricelli
Dorgan	Levin	Wellstone
Durbin	Lieberman	Wyden

NAYS—26

Allard	Faircloth	Kyl
Ashcroft	Gramm	McConnell
Burns	Grams	Nickles
Coats	Hagel	Sessions
Cochran	Helms	Shelby
Coverdell	Hutchinson	Thomas
Craig	Hutchison	Thompson
Domenici	Inhofe	Warner
Enzi	Kempthorne	

ANSWERED ''PRESENT''—1

Lott

NOT VOTING—1

Smith (NH)

The motion to lay on the table the amendment (No. 2427) was agreed to.

Mr. KERRY. Madam President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Texas is recognized to speak for 10 minutes.

AMENDMENT NO. 2422

Mr. GRAMM. Madam President, we have had over a dozen Senators who have stood up and said that while the Kennedy amendment raises the effective tax on a pack of cigarettes to $1.50 per pack, it has absolutely nothing to do with money. Over and over, our colleagues have said this is not about money, it is about children. They say they don't want the money, they want the impact of higher cigarette prices to discourage children from smoking.

It seems to me, Madam President, that if that is in fact what they want, that there is a simple way to give it to them, and that is, we should attach to the Kennedy amendment a tax cut aimed at the very people who are paying this increase in the price of cigarettes. In doing that—may I have order?

Mr. KERRY. Madam President, I make a point of order that the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order. We will not proceed until the Senate is in order. The Senator from Texas is entitled to be heard. The Senator's time will not begin until there is order.

The Senator from Texas.

Mr. GRAMM. Madam President, I thank the Presiding Officer.

Madam President, we have a dilemma in that our colleagues assure us that while this amendment raises hundreds of billions of dollars, that it is not about money. They say they don't want the money, they want the impact of higher cigarette prices. But yet the cold reality is, those prices are going to be paid in higher out-of-pocket costs by blue-collar workers all over America. Thirty-four percent of the cost of this tax increase that is now pending as an amendment here in the Senate will be borne by Americans who make less than $15,000 a year. Forty-seven percent of it will be borne by Americans who make less than $22,000 a year.

And 60 percent of it will be borne by Americans who make less than $30,000 a year. None of this tax increase will be paid for by tobacco companies. Sixty percent of the tax increase will be paid for by Americans who make less than $30,000 a year.

So if the motion to table the Kennedy amendment fails and the Kennedy amendment remains pending, it would be my objective to offer, along with Senator DOMENICI, a second-degree amendment that will repeal the marriage penalty for working Americans in families that earn less than $50,000 a year. In doing so, Senator KENNEDY would have the higher cost of tobacco, but the same people who are paying that tax, while seeing the cost of cigarettes rise would, by having the marriage penalty eliminated, where Americans who fall in love and work at the same time and get married now end up paying higher taxes for the privilege of being married, have that penalty eliminated, so that we would still get the impact of a higher price on inducing children not to smoke.

But blue-collar working Americans, a waitress and a truck driver who are married and who both smoke, under this bill will pay an estimated $712 in new taxes, new excise taxes. We should give that money back to them in a tax cut so that we don't dramatically lower the living standards of blue-collar workers.

I want to remind my colleagues of the incredible fact that the amendment before us, the Kennedy amendment, will mean that Americans who make less than $10,000 a year will see their Federal taxes rise by 53 percent.

So I urge my colleagues, in this rush to tax tobacco companies, to remember that the Kennedy amendment does not tax tobacco companies, it taxes Americans who basically make less than $30,000 a year. It will drive up the Federal tax burden of those who make less than $10,000 a year by over 50 percent.

So I hope my colleagues will table the amendment. But if they don't table the amendment, Senator DOMENICI and I will offer an amendment which lets the tax increase stand but simply takes the money and gives it back to blue-collar working families who are, I have to remind my colleagues, the victims in this debate.

There is a terrible paradox that, instead of taxing the tobacco companies, we are taxing the very people who have been induced to smoke, and therefore the victims are being punished with an excruciating, bone-crushing tax increases so that a working couple will pay $712 in taxes a year as a result of the Kennedy amendment.

If, in fact, our colleagues are only interested in the impact on teenage smoking, then they won't object to the amendment that Senator DOMENICI and I are offering because we don't take the tax off, we simply say take that money, eliminate a discrimination in the Tax Code against married, working people, blue-collar families making less than $50,000 a year, and give them the money back. Also under our provision, we would adjust for the marriage penalty before you calculate the earned income tax credit so that the substantial amount of the benefits would go directly to those Americans who are making less than $10,000 a year who are going to see their Federal tax burden grow by over 50 percent under this bill.

I would like to first ask my colleagues to remember, this is not Joe Camel that this bullet is getting ready to hit. This is not a big tobacco company. This is Joe and Sara Brown, two hard-working Americans who have been induced to smoke. They are the victims in this whole process. And, yet, we are getting ready to take $712 a year out of their pockets. If we don't table this amendment—and I hope we do table it—Senator DOMENICI and I will offer an amendment that will take the money that is raised from this tax increase and we will give it back to the very people who are going to pay these higher taxes. But we will give it back to them by eliminating the marriage penalty, so that they will have to pay more for tobacco, and hopefully they will stop smoking. But they won't be poorer. They won't see their Federal tax burden go up by 50 percent. They won't be crushed by an oppressive and very, very punitive and regressive tax.

Let's remember, it is the victim of the process who is being assaulted by this amendment. I hope my colleagues will vote for the McCain motion to table it. But if they don't, Senator DOMENICI and I will try to give our colleagues what they claim they want. That is, they want the tax; they don't want the money. Well, let's give the money back to blue-collar working families in West Virginia, in Texas, in New Mexico and across the country who make less than $50,000 a year and who need every penny they get. They are the people who are outraged about the fact that they have been exploited by being induced to smoke and in many cases have become addicted to nicotine. They are the ones who are being harmed by the amendment we have before us.

I think the issue is clear. I hope my colleagues will not impose this massive tax increase of $712 on a blue-collar working family where both the husband and the wife smoke. I hope they will not crush them with this tax. But if they decide to, if they decide to do it, then Senator DOMENICI and I will have an amendment to give the money back to married taxpayers by eliminating the marriage penalty for American families that earn less than $50,000 a year, and we will make the adjustment above the line so that those who receive the earned income tax credit, the poorest people in America who work, will receive the benefit of our tax cut.

I yield the remainder of my time.

The PRESIDING OFFICER. Under the previous order, the Senator from Arizona is recognized.

Mr. MCCAIN. Madam President, I am going to make a motion to table the Kennedy amendment. Before I do, I would like to, for the benefit of my colleagues who would like to know what is going on here, say our intention is—and none of this is by unanimous consent—but our intention is to move to the Senator from New Hampshire, Senator GREGG, who has an amendment concerning immunity.

In our custom of going back and forth, since Senator GRAMM was the last speaker, I would like to have Senator KERREY of Nebraska be able to speak for about 15 minutes. Then we would move to Senator GREGG.

I would like to have a vote on that tonight. But I also urge my colleagues to come and talk on the bill as well as its amendment, because I have been told by Members on both sides of the aisle that there is great frustration that they have not been able to address the entire bill, much less amendments.

I intend to stay tonight as long as is necessary. I will force the Senator from Massachusetts to do the same thing, and we will try to get as much debate and discussion of this very important bill before we leave tonight.

Madam President, at this time I move to table the Kennedy amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT (When his name was called). Present.

Mr. NICKLES. I announce that the Senator from New Hampshire (Mr. SMITH) is necessarily absent.

The result was announced—yeas 58, nays 40, as follows:

[Rollcall Vote No. 144 Leg.]

YEAS—58

Abraham	Feingold	McCain
Allard	Feinstein	McConnell
Ashcroft	Ford	Mikulski
Bennett	Frist	Murkowski
Bond	Gorton	Nickles
Breaux	Gramm	Reid
Brownback	Grams	Robb
Burns	Gregg	Roberts
Byrd	Hagel	Roth
Campbell	Hatch	Santorum
Cleland	Helms	Sessions
Coats	Hollings	Shelby
Cochran	Hutchinson	Stevens
Collins	Hutchison	Thomas
Coverdell	Inhofe	Thompson
Craig	Inouye	Thurmond
DeWine	Kempthorne	Torricelli
Domenici	Kerrey	Warner
Enzi	Kyl	
Faircloth	Mack	

NAYS—40

Akaka	Dorgan	Lautenberg
Baucus	Durbin	Leahy
Biden	Glenn	Levin
Bingaman	Graham	Lieberman
Boxer	Grassley	Lugar
Bryan	Harkin	Moseley-Braun
Bumpers	Jeffords	Moynihan
Chafee	Johnson	Murray
Conrad	Kennedy	Reed
D'Amato	Kerry	Rockefeller
Daschle	Kohl	
Dodd	Landrieu	

Sarbanes	Snowe	Wellstone
Smith (OR)	Specter	Wyden

ANSWERED ''PRESENT''—1

Lott

NOT VOTING—1

Smith of New Hampshire

Mr. MCCAIN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. KERRY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS CONSENT AGREEMENT—VETO MESSAGE ON S. 1502

Mr. LOTT. Mr. President, we have cleared this with all concerned parties, including the Democratic leadership.

I ask unanimous consent that the veto message to accompany S. 1502 be considered as read, printed in the RECORD, and spread in full upon the Journal, and further, that it be set aside to be called up by the majority leader after consultation with the Democratic leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I am returning herewith without my approval S. 1502, the ''District of Columbia Student Opportunity Scholarship Act of 1998.''

If we are to prepare our children for the 21st Century by providing them with the best education in the world, we must strengthen our public schools, not abandon them. My agenda for accomplishing this includes raising academic standards; strengthening accountability; providing more public school choice, including public charter schools; and providing additional help to students who need it through tutors, mentors, and after-school programs. My education agenda also calls for reducing class size, modernizing our schools and linking them to the Internet, making our schools safe by removing guns and drugs, and instilling greater discipline.

This bill would create a program of federally funded vouchers that would divert critical Federal resources to private schools instead of investing in fundamental improvements in public schools. The voucher program established by S. 1502 would pay for a few selected students to attend private schools, with little or no public accountability for how those funds are used, and would draw resources and attention away from the essential work of reforming the public schools that serve the overwhelming majority of the District's students. In short, S. 1502 would do nothing to improve public education in the District of Columbia. The bill won't hire one new teacher, purchase one more computer, or open one after-school program.

Although I appreciate the interest of the Congress in the educational needs of the children in our Nation's Capital, this bill is fundamentally misguided and a disservice to those children.

The way to improve education for all our children is to increase standards, accountability, and choice within the public schools. I urge the Congress to send me legislation I have proposed to reduce class size, modernize our schools, end social promotions, raise academic standards for all students, and hold school systems, schools, and staff accountable for results.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 20, 1998.*

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

Mr. LOTT. Mr. President, we have had a good bit of discussion today and two very important votes. I hope that we can move on now to some other amendments that really are important and will determine how this legislation is eventually written.

I thank Senators again for keeping calm and working through this. The managers are working very diligently. I emphasize again to my colleagues, while I think every Senator obviously needs to have the time and will have the time he or she needs to make a statement, I do think it would be wise if you can say what you have to say and we can move on. To go for an extended period of time on an amendment 2, 3, 4, 5 hours is going to make it very difficult to ever get a satisfactory result.

I hope Senators will agree to some reasonable time limits. I am not going to ask for a unanimous consent agreement now. I don't think it is necessary, but I will suggest the form that we might take in a consent agreement as to how to proceed.

It is my hope that Senator GREGG from New Hampshire will be recognized next to offer his amendment, with Senator LEAHY, regarding immunity. Senator GREGG and Senator LEAHY have been circling the area since we started. They are ready to go. The debate should last the rest of this session today. It is my hope that the vote on, or in relation to, that amendment can be scheduled to occur first thing on Thursday morning—I mean early—so we can move to the next amendment, which will come from the Democratic side. Senator DASCHLE and Senator KERRY will have to decide what amendment that will be.

Following the disposition of that amendment offered by the Democrats, then I hope the Senate will consider the farmers' protection issue and debate it, have a vote on that issue or issues in a way, hopefully, that is agreeable and as fair as possible to both sides of that issue. Then we will really have a feel for where we are and can make an assessment about time and where to go from there.

I hope that Senators are comfortable with that. I think that it is a fair way to proceed alternating back and forth. We are not ducking the tough issues. This last amendment was a key amendment. This next amendment is a key amendment. The farmers' amendment is critical to all concerned. So I hope this will be acceptable and we can move in this way. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, that is, I think, a superb way to proceed. It is the way we have been trying to proceed. I thank the majority leader for trying to structure it that way.

There was an understanding prior to that that the Senator from Nebraska will proceed for 15 minutes, at which point Senators GREGG and LEAHY will be recognized for their amendment.

Mr. LEAHY. Mr. President, I have no objection to that.

Mr. KERRY. I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I thank both the Senator from Arizona and the Senator from Massachusetts for allowing me to speak.

I have come to the floor to speak about the tobacco bill. I began several months ago to have conversations with Nebraskans about this legislation. The first question I was asked is, Why do we need it? What has happened here? All of a sudden we have a $368 billion to a $516 billion piece of legislation being introduced and people want to know how we got to where we are today.

I would like to describe, at least as I see it, how we got to where we are today in May of 1998, from a point just as recently as 2 years ago when there was no piece of legislation on the floor even remotely approaching something like this. ''Why all of a sudden is Congress taking on something like this,'' is the question I get asked. I will try to give Nebraskans an answer.

The second question I get asked is, ''What are we going to do? What is the purpose here?'' On behalf of 1,600,000 Nebraskans, I will describe what this law is attempting to do, what is the piece of legislation which Senator MCCAIN and Senator KERRY have brought before this body all about.

The short answer to the question ''How did we get to this point?'' is that there was a potential lawsuit. There was litigation that was being proposed by States' attorneys general against tobacco companies. There was an attempt through the discovery process to get internal tobacco industry documents, and one of the tobacco companies said, ''We'll provide you the information you need to proceed with your case because we are concerned that what we know is going to be discovered

anyway, that there was an effort to withhold information from the American people.''

What happened, in addition to some changes in State law, is that on the 20th of June, 1997, there was an agreement—it was not even a year ago—with 40 attorneys general in the United States and the tobacco industry.

What they agreed to, Mr. President, on the 20th of June 1997, is very important, especially now that the tobacco companies have broken off from the settlement and are now advertising against this legislation in our States.

Again, I emphasize that the reason we are debating this tobacco bill today is not because the tobacco industry is afraid of Congress, and what we may do to them. Rather, they are afraid of 12 faceless men and women of a jury. They are worried about the evidence being introduced and now stipulated in court, showing that the tobacco industry knew nicotine was addictive and lied about it. They were, and still are worried about what a jury would do with this evidence. They were, and still are scared that a jury will end up costing them a whole lot of money. That was the power that produced this offer to settle at $368 billion.

That begs a question that Nebraskans need to try to answer. What was in that initial offer to settle? What were the tobacco companies willing to do back on the 20th of June 1997?

First of all, they agreed to pay $368 billion over 25 years. They said they would make annual payments starting at $10 billion, going up to $15 billion by year 5, and every year thereafter.

Although they do not spell it out in terms of a per-pack price increase like you hear them advertising against today, to make the $15 billion-per-year payment, the tobacco industry would have raised the price of cigarettes by approximately 62 cents a pack. Less than a year ago, they, not Congress, were going to raise the price of cigarettes by 62 cents a pack. Yet now, less than a year later, they have launched this huge advertising campaign trying to convince you that Congress is the bad guy trying to raise your taxes. They did this to settle lawsuits that they were afraid of.

Indeed, the next amendment that we are going to talk about is their liability. They were concerned about future liability, and they were willing to pay out $15 billion a year, costing smokers about 62 cents a pack, so they would not have to worry about it anymore.

They also agreed to pay $50 billion up front in punitive damages, meaning for all their past wrongs that they knew they were guilty of about misleading the American people, about nicotine's addictiveness, and marketing to our children.

Next, they agreed to let the FDA regulate nicotine as a drug. Next, they agreed to pay huge fines if goals of reducing teen smoking were not met. And, finally, they agreed to restrict their advertising and marketing to youth.

I say, Mr. President, that almost all of what I have just described is in this tobacco bill. That is what the Commerce Committee has voted out of Committee, and that is what we are debating on the floor today. Yet, less than a year after the tobacco settlement, the tobacco industry is spending millions of dollars trying to convince the American people that they had nothing to do with any of this and that Congress is the bad guy. This is the message they have paid lots of money to convince the people of. I have seen it in their television ads, on postcards that are being mailed in to my office, and from the thousands of phone calls that I have received. Everything that they are objecting to, and convincing others to object to, they agreed to back on the 20th of June 1997.

A lot has happened since that settlement, Mr. President, that has caused significant change to this legislation. First, the tobacco industry settled a suit in Florida for $11 billion, they settled a suit in Texas for $15.3 billion—but the settlement that really changed the level of the playing field that we are on today was the one that happened 12 days ago in Minnesota on the 8th of May. After 3 months of a closely watched trial, just hours before the jury was going to get the case, Attorney General Hubert Humphrey III and the tobacco industry settled the case for $6.5 billion.

There were lots of firsts in this settlement. This was the first settlement with a health insurance provider, in this case Blue Cross and Blue Shield, getting $469 million of the $6.5 billion.

This was the first settlement where the tobacco industry signed a consent promising not to misrepresent the health hazards of smoking.

And perhaps most significantly, this was the first settlement where the State received more money than it would have collected under the $368 billion settlement last June.

The $6.1 billion they settled on 12 days ago is 50 percent more than the $4 billion they would have received under last summer's settlement. This is significant. This is the justification for going from 62 cents to $1.10 per pack. This is the justification for increasing the total amount that we are asking the tobacco industry to pay into the tobacco trust.

Already, the tobacco industries have said they will raise prices to help defray some of their legal expenses. Indeed, in the past 9 months cigarette prices have been raised about 20 percent to help offset the tobacco industry's legal bills.

Again, Mr. President, I tell you the history of this bill because it is important to understand how we got to where we are today. A single tobacco company broke away from the rest and disclosed information that enabled us to get a settlement on the 20th of June 1997. There has been additional settlements in Texas, in Florida, and most significantly in Minnesota that increased the dollar amounts from the base level agreement that was formed on the 20th of June 1997.

Mr. President, the next issue to discuss, this bill and the goals of this bill, is a bit more difficult because things are changing at such a rapid pace. The way I see it, from talking to Nebraskans about this, is that the goal of this legislation is clear. We need to prevent teenagers from starting to smoke and to help those Americans who do smoke and want to quit.

Why, Mr. President? Well, there are a couple of reasons why. The most important one of which is that we now know, stipulated in court documents, that nicotine is addictive. It is not habit forming, Mr. President. It is addictive. And the qualities of the addictive property of nicotine, taken together with the toxins that are contained in the tobacco itself, create a tremendous public health problem.

I have 352,000 Nebraskans who smoke. I do not just want to raise the prices on those Nebraskans to try to decrease the amount of consumption, along with FDA regulation and advertising and other sorts of things, I want to make certain that the money in this bill helps them stop smoking.

Now, that should be our crusade. That should be our cause. Tobacco kills prematurely nearly 400,000 people every year. Approximately 2700 of these are Nebraskans.

Tobacco consumption produces tremendous health problems for the 352,000 Nebraskans who smoke. And the best way for me to mitigate the problem associated with an increased price is to give them a tax cut by helping them stop smoking so their medical costs and lost wages from missed work will be lower. My belief is, as we examine not only what this legislation does in terms of regulation, in terms of advertising, in terms of restrictions on smoking in public places to make sure that we reduce the number of people who become involuntary smokers as a result of inhaling secondhand smoke, is that we pay attention to how the money is spent. This is so we have some confidence that in our individual States those citizens out there who are currently smoking, who are addicted to nicotine as a consequence, that those individuals have a chance to get off this addiction that is reducing the quality of their health and decreasing their life spans.

Mr. President, I examined the numbers in Nebraska. And 25 percent of the men in Nebraska smoke; 19 percent of women smoke; 39 percent of all my teenagers smoke. Nebraskans without a college degree are nearly twice as likely to smoke as those with a college degree. A third of Nebraskans with an income of $15,000 or less smoke compared to only 15 percent of those who earn $50,000 or more.

Again, Mr. President, tobacco is killing my people. And 2,700 of the people who prematurely die every single year in the United States of America are

Nebraskans. It is addictive. It causes a physical compulsion, a physical need. Taken in small doses, nicotine produces pleasurable feelings that make the smoker want to smoke more. A majority of smokers who become dependent on nicotine will suffer both physical and psychological withdrawal symptoms when they stop smoking.

Their symptoms are going to include nervousness, headaches, irritability and difficulty in sleeping, among other things.

Mr. President, a couple of weeks ago I met with 10 or 12 high school students in Burke High School in Omaha, NE. And I talked to them about this problem of addiction. I think about 7 of the 12 were smokers. One of the students explained to me that ''A cigarette,'' she said, ''is my friend.'' She is 16 years old. ''A cigarette,'' she said, ''is my friend . . . it is always there for me: When I'm driving in my car, when I'm stressed out, when I'm going through a crisis . . . cigarettes don't go out of town, I can count on them no matter what.''

I asked about 100 students to fill out a questionnaire about tobacco. And one of the more disturbing results in their answers was that the overwhelming majority of the current smokers said that although they smoked today at age 16, and though some may continue smoking until they are 18, the overwhelming majority of these students said, ''We're going to quit.''

Well, Mr. President, because unbeknownst to them—and until recently the tobacco companies were not stipulating that nicotine is addictive; now it is universally recognized that it is—unbeknownst to these students, they are addicted. They have a physical craving for something and it is going to be very difficult for them to stop. Unbeknownst to them, 90 percent of the 352,000 Nebraskans who smoke started smoking when they were teenagers. That is when it began.

So unbeknownst to them, they may think they are going to quit, but unless we intervene, and unless we help them—and hopefully through this legislation we can help them—they are going to have a heck of a time kicking this addiction.

Mr. President, cigarette smoking is harmful. Cigarette smoking, we now know, is not only addictive, but taken as directed it is likely to decrease your life span, likely to shorten not only your ability to work, but shorten your time on Earth as well.

Mr. President, I intend during the course of the debate on this legislation to focus my attention on a number of things.

One, this legislation must prevent teen smoking. It must reduce the amount of teen smoking. I think perhaps one of the most important things we are doing is giving FDA the authority to regulate.

I was practicing pharmacy back when dinosaurs roamed the Earth in 1965, when Congress was debating whether or not to regulate Dexedrine, 15 milligrams. This was a weight loss pill. It was the most rapidly moving pharmaceutical in my drugstore in 1965. You could get a prescription from a doctor and refill it every other day if you wanted to for 500 Dexedrine. And the pharmaceutical industry was saying, ''No. It is habit forming; it is not addictive.'' Today, through FDA regulation, Dexedrine 15 milligrams is available only for narcolepsy, and only small amounts are sold. I think the most likely reduction of teen smoking is going to occur not through the price increase, but through FDA regulation.

In addition, Mr. President, I intend to bring amendments to the floor to say that we have to make certain that we have community-based efforts in our States to reduce smoking of the adults out there who are also addicted. It has to do that. It cannot be a top-down effort. It has to be a community-based effort. The citizens are more likely to know what needs to be done. I believe every single State needs to have some kind of a research scholar connected to NIH to lead us in this effort.

This is a tremendous public health problem. It has come upon us, the history of the bill and the seriousness of this problem, relatively quickly. I am hopeful we can make certain this legislation gives us a fighting chance in my State, at least not just of increasing prices and increasing the regulatory action, but of engaging the citizens themselves and the smokers themselves in a serious challenge of trying to break themselves from this habit.

Finally, I know we are going to be debating on this floor the provisions relating to the tobacco farmers. I am of the opinion that tobacco farmers need some assistance. It was not in the original settlement. I praise Senator FORD and Senator HOLLINGS for their work in trying to get provisions in there, but I believe these provisions are too generous and we need to scale them back. It is difficult for me in a State that grows corn, soybeans, wheat, barley, and lots of other products—under the Freedom to Farm Act they are getting substantially less than what tobacco farmers will be getting out of the program. I can make a case tobacco farmers ought to get more, but I cannot make a case they ought to be given all that is in this bill.

It is my hope that during the course of this constructive debate we are able to pass a piece of legislation that will increase regulation, that will increase the price, will increase our involvement in our community and decrease the consumption and the addiction to a substance which is killing our people.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

AMENDMENT NO. 2433 TO MODIFIED COMMITTEE SUBSTITUTE

(Purpose: To modify provisions relating to civil liability for tobacco manufacturers)

Mr. GREGG. Mr. President, I send an amendment to the desk on behalf of myself and Senator LEAHY.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for himself and Mr. LEAHY, proposes an amendment numbered 2433 to the modified committee substitute.

Mr. GREGG. Mr. President, I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In title XIV, strike section 1406 and all that follows through section 1412 and insert the following:

SEC. 1406. RESOLUTION OF AND LIMITATIONS ON CIVIL ACTIONS.

(a) STATE ATTORNEY GENERAL ACTIONS.—

(1) PENDING CLAIMS.—With respect to a State, to be eligible to receive payments from the State Litigation Settlement Account, the attorney general for such State shall resolve any civil action seeking recovery for expenditures attributable to the treatment of tobacco related illnesses and conditions that have been commenced by the State against a tobacco product manufacturer, distributor, or retailer that is pending on the date of enactment of this Act.

(2) FUTURE ACTIONS BASED ON PRIOR CONDUCT.—With respect to a State, to be eligible to receive payments from the State Litigation Settlement Account, the attorney general for such State shall agree that the State will not commence any new tobacco claim after the date of enactment of this Act (other than to enforce the terms of a previous judgment) that is based on the conduct of a participating tobacco product manufacturer, distributor, or retailer that occurred prior to the date of enactment of this Act, seeking recovery for expenditures attributable to the treatment of tobacco induced illnesses and conditions against such a participating tobacco product manufacturer, distributor, or retailer.

(3) APPLICATION TO LOCAL GOVERNMENTAL ENTITIES.—The requirements described in paragraphs (1) and (2) shall apply to civil actions commenced by or on behalf of local governmental entities for the recovery of costs attributable to tobacco-related illnesses if such localities are within a State whose attorney general has elected to resolve claims under paragraph (1) and enter into the agreement described in paragraph (2). Such provisions shall not apply to those local governmental entities that are within a State whose attorney general has not resolved such claims or entered into such agreements.

(b) STATE AND LOCAL OPTION FOR ONE-TIME OPT OUT.—

(1) IN GENERAL.—The Secretary shall establish procedures under which the attorney general of a State may, not later than 1 year after the date of enactment of this Act, elect not to resolve an action described in subsection (a)(1) or not to enter into an agreement under subsection (a)(2). A State whose attorney general makes such an election shall not be eligible to receive payments from the State Litigation Settlement Account. Procedures under this paragraph shall permit such a State to make such an election on a one-time basis.

(2) EXTENSION.—In the case of a State that has secured a judgment against a participating tobacco product manufacturer, distributor, or retailer in an action described in subsection (a)(1) prior to or during the period described in paragraph (1), and such judgment has been appealed by such manufacturer, distributor, or retailer, such period shall be extended during the pendency of the appeal and for an additional period as determined appropriate by the Secretary.

(3) APPLICATION TO CERTAIN STATES.—A State that has resolved a tobacco claim described in subsection (a)(1) with a participating tobacco product manufacturer, distributor, or retailer prior to the date of enactment of this Act may not make an election described in paragraph (1) if, as part of the resolution of such claim, the State agreed that the enactment of any national tobacco settlement legislation would supersede the provisions of the resolution.

(4) LOCAL GOVERNMENTAL ENTITY OPTION FOR ONE-TIME OPT OUT.—

(A) IN GENERAL.—The Secretary shall establish procedures under which the attorney for a local governmental entity which commenced a civil action prior to June 20, 1997, against a participating tobacco product manufacturer, distributor, or retailer seeking recovery for expenditures attributable to the treatment of tobacco related illnesses and conditions, not later that 1 year after the date of enactment of this Act, may elect not to resolve any action described in subsection (a)(3). A local governmental entity whose attorney makes such an election shall not be eligible to receive payments from the State Litigation Settlement Account. Procedures under this paragraph shall permit such a local governmental entity to make such an election on a one-time basis.

(B) EXTENSION.—In the case of a local governmental entity that has secured a judgment against a participating tobacco product manufacturer, distributor, or retailer in a claim described in subsection (a)(3) prior to or during the period described in subparagraph (A), and such judgment has been appealed by such manufacturer, distributor, or retailer, such period shall be extended during the pendency of the appeal and for an additional period as determined appropriate by the Secretary.

(C) APPLICATION TO CERTAIN LOCAL GOVERNMENTAL ENTITIES.—A local governmental entity that has resolved a claim described in subsection (a)(3) with a participating tobacco product manufacturer, distributor, or retailer prior to the date of enactment of this Act may not make an election described in subparagraph (A) if, as part of the resolution of such claim, the local governmental entity agreed that the enactment of any national tobacco settlement legislation would supersede the provisions of the resolution.

(c) ADDICTION AND DEPENDENCY CLAIMS; CASTANO CIVIL ACTIONS.—

(1) ADDICTION AND DEPENDENCE CLAIMS BARRED.—In any civil action to which this title applies, no addiction claim or dependence claim may be filed or maintained against a participating tobacco product manufacturer.

(2) CASTANO CIVIL ACTIONS.—

(A) IN GENERAL.—The rights and benefits afforded in section 221 of this Act, and the various research activities envisioned by this Act, are provided in settlement of, and shall constitute a remedy for the purpose of determining civil liability as to those addiction or dependence claims asserted in the Castano Civil Actions. The Castano Civil Actions shall be dismissed to the extent that they seek relief in the nature of public programs to assist addicted smokers to overcome their addiction or other publicly available health programs with full reservation of the rights of individual class members to pursue claims not based on addiction or dependency in civil actions in accordance with this Act.

(B) ARBITRATION.—For purposes of awarding attorneys fees and expenses for those actions subject to this subsection, the matter at issue shall be submitted to arbitration before one panel of arbitrators. In any such arbitration, the arbitration panel shall consist of 3 persons, one of whom shall be chosen by the attorneys of the Castano Plaintiffs' Litigation Committee who were signatories to the Memorandum of Understanding dated June 20, 1997, by and between tobacco product manufacturers, the Attorneys General, and private attorneys, one of whom shall be chosen by the participating tobacco product manufacturers, and one of whom shall be chosen jointly by those 2 arbitrators.

(C) PAYMENT OF AWARDS.—The participating tobacco product manufacturers shall pay the arbitration award.

(d) RULES OF CONSTRUCTION.—

(1) POST ENACTMENT CLAIMS.—Nothing in this title shall be construed to limit the ability of a government or person to commence an action against a participating tobacco product manufacturer, distributor, or retailer with respect to a claim that is based on the conduct of such manufacturer, distributor, or retailer that occurred after the date of enactment of this Act.

(2) NO LIMITATION ON PERSON.—Nothing in this title shall be construed to limit the right of a government (other than a State or local government as provided for under subsection (a) and (b)) or person to commence any civil claim for past, present, or future conduct by participating tobacco product manufacturers, distributors, or retailers.

(3) CRIMINAL LIABILITY.—Nothing in this title shall be construed to limit the criminal liability of a participating tobacco product manufacturer, distributor or retailer or its officers, directors, employees, successors, or assigns.

(e) DEFINITIONS.—In this section:

(1) PERSON.—The term ''person'' means an individual, partnership, corporation, parent corporation or any other business or legal entity or successor in interest of any such person.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

Mr. GREGG. Mr. President, this amendment has received a fair amount of attention and I believe is fairly well understood by most of the membership, but it is important that we have a substantive discussion of it and an open debate of it over the next couple of hours. As I understand, Senator MCCAIN has allotted that type of a time window. I very much appreciate that.

I want to thank Senator MCCAIN for his courtesy in allowing us to put this amendment in order at this time, and certainly I appreciate the manner in which he has managed this bill in such a fair way.

The immunity issue is really at the essence of this bill and the public policy which this bill addresses. What we have here is an industry which produced a product which it knew killed people. It is an industry that produced a product which it knew addicted people. In fact, it created additives to that product so it would addict people at a higher rate than were the product sold in its natural state. Then, knowing that it had a product that killed people, and knowing that it had a product that addicted people, it then targeted the sales of that product on our kids.

That is an industry which deserves very little in the way of courtesy or support or protection—and that is what this amendment is about, ''or protection''—from the U.S. Congress. Yet, within this bill there is proposed language which would give a historic, unprecedented protection to the tobacco industry from liability on their lawsuits.

Now, we have addressed this issue before in this body. In fact, not too long ago there was a sense of the Senate which said there shall be no immunity for the tobacco industry. That sense of the Senate passed the Senate by a 79 to 19 vote. This amendment is the real thing. It is calling to account that sense of the Senate.

Now, the question here goes to the manner in which we, as a country, sell products. We are inherently the most capitalist, market-oriented economy in the world. As a result, we have been the most prosperous society in the world economically. What this amendment is about is maintaining a capitalist marketplace approach to the issue of the sale of a product in our society.

What this bill does in its present form is institute an antimarket, anticapitalist approach into the process of producing and selling a product in this society. It gives an artificial, inappropriate, legislative protection to an industry from what has been the traditional way in which consumers have a right of redress against that industry.

Remember, in our society when a consumer, when John and Mary Jones from Epping, NH, are sold a product that doesn't work, they have a variety of different avenues to address the failure of that product. Should that product harm them, one of their most appropriate avenues is to go to court to bring an action against the producer of that product and to get a recovery. That has been basically one of the essential elements for disciplining the marketplace in our capitalist society. We have not, as has been pursued in other nations, especially those that use a Socialist form of management of their marketplace, we have not had the Federal Government or any government come in and tell a consumer what they can and cannot buy, except in very limited instances. And we have certainly not limited that consumer's ability to recover should they be sold a product that doesn't work or that harms them.

The right of redress in the court system, the right of redress for a consumer, is at the essence of having a competitive marketplace and a disciplined marketplace. When you eliminate that right of redress, which this bill does, when you take away the ability of the consumer, of the person who has been damaged, of John and Mary Jones of Epping, NH, to get a recovery for an injury they have received, you have artificially preserved the marketplace. But more importantly, you have

given a unique, historic, and totally inappropriate protection to an industry.

Now, let's think about this for a minute. Why would the Federal Government at any point in its history want to step in and bar the ability of the consumer to use the judicial method of protecting themselves in the marketplace? There might be instances where that would happen—national defenses might be an example. Under our law, once we did that in the area of people working at nuclear weapons factories. There was a national defense issue.

Or it might occur if a product was deemed so beneficial that it was important to protect it. In those instances, of course, we have a situation where the Government raises the visibility of the need to protect the society as a whole over the individual. That has never happened. We have never found a product that was so beneficial. Or if we have, it has only occurred in the rarest of instances, so beneficial that we give that sort of protection. So that is a very unusual protection, to say the least.

But what we have here is the granting of a significant, unusual protection of immunity to an industry that produces tobacco, which, as I mentioned in my opening statement, is a product that kills people, that addicts kids, and addicts people and is targeted at kids. It is very strange that we should pick that industry for which to give this sort of protection.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2434 TO AMENDMENT NO. 2433

(Purpose: To modify provisions relating to civil liability for tobacco manufacturers)

Mr. GREGG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. GREGG] proposes an amendment numbered 2434 to amendment No. 2433.

Mr. GREGG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

In title XIV, strike section 1406 and all that follows through section 1412 and insert the following:

SEC. 1406. RESOLUTION OF AND LIMITATIONS ON CIVIL ACTIONS.

(a) STATE ATTORNEY GENERAL ACTIONS.—

(1) PENDING CLAIMS.—With respect to a State, to be eligible to receive payments from the State Litigation Settlement Account, the attorney general for such State shall resolve any civil action seeking recovery for expenditures attributable to the treatment of tobacco related illnesses and conditions that have been commenced by the State against a tobacco product manufacturer, distributor, or retailer that is pending on the date of enactment of this Act.

(2) FUTURE ACTIONS BASED ON PRIOR CONDUCT.—With respect to a State, to be eligible to receive payments from the State Litigation Settlement Account, the attorney general for such State shall agree that the State will not commence any new tobacco claim after the date of enactment of this Act (other than to enforce the terms of a previous judgment) that is based on the conduct of a participating tobacco product manufacturer, distributor, or retailer that occurred prior to the date of enactment of this Act, seeking recovery for expenditures attributable to the treatment of tobacco induced illnesses and conditions against such a participating tobacco product manufacturer, distributor, or retailer.

(3) APPLICATION TO LOCAL GOVERNMENTAL ENTITIES.—The requirements described in paragraphs (1) and (2) shall apply to civil actions commenced by or on behalf of local governmental entities for the recovery of costs attributable to tobacco-related illnesses if such localities are within a State whose attorney general has elected to resolve claims under paragraph (1) and enter into the agreement described in paragraph (2). Such provisions shall not apply to those local governmental entities that are within a State whose attorney general has not resolved such claims or entered into such agreements.

(b) STATE AND LOCAL OPTION FOR ONE-TIME OPT OUT.—

(1) IN GENERAL.—The Secretary shall establish procedures under which the attorney general of a State may, not later than 1 year after the date of enactment of this Act, elect not to resolve an action described in subsection (a)(1) or not to enter into an agreement under subsection (a)(2). A State whose attorney general makes such an election shall not be eligible to receive payments from the State Litigation Settlement Account. Procedures under this paragraph shall permit such a State to make such an election on a one-time basis.

(2) EXTENSION.—In the case of a State that has secured a judgment against a participating tobacco product manufacturer, distributor, or retailer in an action described in subsection (a)(1) prior to or during the period described in paragraph (1), and such judgment has been appealed by such manufacturer, distributor, or retailer, such period shall be extended during the pendency of the appeal and for an additional period as determined appropriate by the Secretary, not to exceed one year.

(3) APPLICATION TO CERTAIN STATES.—A State that has resolved a tobacco claim described in subsection (a)(1) with a participating tobacco product manufacturer, distributor, or retailer prior to the date of enactment of this Act may not make an election described in paragraph (1) if, as part of the resolution of such claim, the State agreed that the enactment of any national tobacco settlement legislation would supersede the provisions of the resolution.

(4) LOCAL GOVERNMENTAL ENTITY OPTION FOR ONE-TIME OPT OUT.—

(A) IN GENERAL.—The Secretary shall establish procedures under which the attorney for a local governmental entity which commenced a civil action prior to June 20, 1997, against a participating tobacco product manufacturer, distributor, or retailer seeking recovery for expenditures attributable to the treatment of tobacco related illnesses and conditions, not later that 1 year after the date of enactment of this Act, may elect not to resolve any action described in subsection (a)(3). A local governmental entity whose attorney makes such an election shall not be eligible to receive payments from the State Litigation Settlement Account. Procedures under this paragraph shall permit such a local governmental entity to make such an election on a one-time basis.

(B) EXTENSION.—In the case of a local governmental entity that has secured a judgment against a participating tobacco product manufacturer, distributor, or retailer in a claim described in subsection (a)(3) prior to or during the period described in subparagraph (A), and such judgment has been appealed by such manufacturer, distributor, or retailer, such period shall be extended during the pendency of the appeal and for an additional period as determined appropriate by the Secretary, not to exceed one year.

(C) APPLICATION TO CERTAIN LOCAL GOVERNMENTAL ENTITIES.—A local governmental entity that has resolved a claim described in subsection (a)(3) with a participating tobacco product manufacturer, distributor, or retailer prior to the date of enactment of this Act may not make an election described in subparagraph (A) if, as part of the resolution of such claim, the local governmental entity agreed that the enactment of any national tobacco settlement legislation would supersede the provisions of the resolution.

(c) ADDICTION AND DEPENDENCY CLAIMS; CASTANO CIVIL ACTIONS.—

(1) ADDICTION AND DEPENDENCE CLAIMS BARRED.—In any civil action to which this title applies, no addiction claim or dependence claim may be filed or maintained against a participating tobacco product manufacturer.

(2) CASTANO CIVIL ACTIONS.—

(A) IN GENERAL.—The rights and benefits afforded in section 221 of this Act, and the various research activities envisioned by this Act, are provided in settlement of, and shall constitute a remedy for the purpose of determining civil liability as to those addiction or dependence claims asserted in the Castano Civil Actions. The Castano Civil Actions shall be dismissed to the extent that they seek relief in the nature of public programs to assist addicted smokers to overcome their addiction or other publicly available health programs with full reservation of the rights of individual class members to pursue claims not based on addiction or dependency in civil actions in accordance with this Act.

(B) ARBITRATION.—For purposes of awarding attorneys fees and expenses for those actions subject to this subsection, the matter at issue shall be submitted to arbitration before one panel of arbitrators. In any such arbitration, the arbitration panel shall consist of 3 persons, one of whom shall be chosen by the attorneys of the Castano Plaintiffs' Litigation Committee who were signatories to the Memorandum of Understanding dated June 20, 1997, by and between tobacco product manufacturers, the Attorneys General, and private attorneys, one of whom shall be chosen by the participating tobacco product manufacturers, and one of whom shall be chosen jointly by those 2 arbitrators.

(C) PAYMENT OF AWARDS.—The participating tobacco product manufacturers shall pay the arbitration award.

(d) RULES OF CONSTRUCTION.—

(1) POST ENACTMENT CLAIMS.—Nothing in this title shall be construed to limit the ability of a government or person to commence an action against a participating tobacco product manufacturer, distributor, or retailer with respect to a claim that is based on the conduct of such manufacturer, distributor, or retailer that occurred after the date of enactment of this Act.

(2) NO LIMITATION ON PERSON.—Nothing in this title shall be construed to limit the right of a government (other than a State or local government as provided for under subsection (a) and (b)) or person to commence

any civil claim for past, present, or future conduct by participating tobacco product manufacturers, distributors, or retailers.

(3) CRIMINAL LIABILITY.—Nothing in this title shall be construed to limit the criminal liability of a participating tobacco product manufacturer, distributor or retailer or its officers, directors, employees, successors, or assigns.

(e) DEFINITIONS.—In this section:

(1) PERSON.—The term ''person'' means an individual, partnership, corporation, parent corporation or any other business or legal entity or successor in interest of any such person.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

Mr. GREGG. Mr. President, the amendment is a second-degree amendment, which simply perfects the amendment I offered, the underlying amendment. I will give a copy of the changes to the other side. I don't think they will find that they change the basic thrust of the original amendment.

As I was discussing, the amendment goes to the question of immunity and why we would choose, for the first time in the history of this country, to grant immunity to an industry from lawsuits, which basically changes the whole concept of the marketplace system in our country—why we would choose the tobacco industry to which to give that immunity. It is just beyond comprehension that an industry that produces a product that kills people, which they designed to addict kids, would be chosen as the industry to which we are going to give immunity protection. It makes absolutely no sense. It skews the marketplace. I simply point out to those who might be of a conservative philosophy and may be following this argument that to have done this is an absolute affront to the concept of capitalism and a free market society.

Now, there is an attempt in the bill to address the liability that tobacco companies generate as a result of their action—an $8 billion cap. Some will tell us that is a lot of money and that should satisfy everyone as a manner in which to redress the concerns of the consumer, of the individuals, of the kids, of the parents, the mom and pops, who have been damaged by the tobacco companies. And $8 billion is a huge amount of money on an annual cap for recovery on the loss. But it obviously isn't what the market sees as the potential liability here. Otherwise, there would not be a cap in the first place. So by its very definition it is an affront to the concept of a market-type approach to the selling of products in this country.

Equally important is the way this cap works. It gives a disproportionate amount of power to the tobacco companies to decide who the winners and losers are, because it is essentially a race to the courthouse. The tobacco companies, under the proposal in this bill, would control who gets to the courthouse first. If they decided the XYZ lawsuit was more amenable to them to settle than the ABC lawsuit, or Mary Smith's lawsuit was less desirable to them, for some reason, than Hank Jones', they can settle the ABC lawsuit, the XYZ lawsuit, and the Mary Smith lawsuit, but they cannot settle the Hank Jones lawsuit, they can make him litigate. And, by the time he is finished, they have settled these other ones and, poof, the $8 billion is gone. So not only does it have the total irony of perverting the marketplace, it has the irony of giving the tobacco industry the capacity to choose who the winners and losers are in the process of determining people who are suing them for being caused physical damage.

Can you think of anything more ironic? You have been damaged, your health has been destroyed, or maybe someone in your family has died as a result of the tobacco industry's actions, or some child was addicted and that child dies and the tobacco company gets to choose whether or not that person is going to be a winner under the lawsuit process. How unbelievably ironic and absurd that is. But that is the way this cap works. This is just one of the many, many technical problems with the concept of a cap, because what I think it reflects is the idea that when you put an artificial cap into a huge, dynamic economy like the United States', you are basically creating all sorts of unintended consequences that don't flow naturally in a capitalist system. Much more appropriate is that you allow the capitalist system to proceed in its usual and orderly course.

Now, others will say, well, if you don't have immunity, then you inevitably drive these companies into bankruptcy. To begin with, we don't have any idea that that is true. What we know is that these industries are extraordinarily profitable. We know that, right now, they are pursuing major buy-backs. Philip Morris, an $8 million buy-back; RJR, a buy-back of its stock. When you start buying back your stock as a corporate leader, you are saying your stock is undervalued. If your stock is undervalued, it is the ultimate test that in the future you have a better chance of progressive sales and a strong market force for your industry.

So the concept that if they don't have immunity, they are going to end up going bankrupt, I think the marketplace has discounted and rejected that and said that is not going to happen. In fact, there is a tremendous earning capacity out there, and we already know there is a tremendous capacity to pass on to the consumer, because that is the theme of this bill—to pass on to the consumer a significant part of the cost. As long as they can pass through that cost, it doesn't impact them at all, doesn't impact their capacity at all.

So from a substantive standpoint, bankruptcy doesn't make any sense as a defensive argument to this. But just from a purely logical standpoint, it even makes less sense. Think about it this way. We are saying that to save the industry from bankruptcy we have to put on this cap. But at the same time, we have to tax it. The reason we are taxing it is to discourage people from consuming the product. And the logical extension of that is that if you are successful in taxing people and managing to discourage them from using the product, you are going to reduce utilization, which one presumes would inevitably lead to the collapse of the industry and potentially bankruptcy.

So the bill, by its very nature, is inherently saying that the options of bankruptcy are there, but they are going to do it on a different system—through the tax system. Yet, they won't allow the marketplace to make that decision. They won't allow the marketplace to decide whether or not this industry survives, which is the way, traditionally, we have done it in this country. We don't traditionally say to an industry, well, you are about to go bankrupt, which is something that this industry can't say, certainly in light of what it is doing with stock values—so we, the Federal Government, are going to step in and give you unique protection; we are going to give you liability protection. And we certainly don't say it to an industry that has produced a product that kills people and has addicted them.

For those people who don't believe this industry knew their product was addictive, I will cite a few quotes. We have here quotes from the Brown & Williamson documents, disclosed as a result of the Minnesota case, and from documents of RJR. Brown & Williamson in 1978—that is a long time ago; this wasn't just yesterday:

> Very few consumers are aware of the effects of nicotine, i.e., its addictive nature, and that nicotine is a poison.

These folks knew a long time ago that they were selling an addictive product that killed people. This is a quote from RJR:

> Tobacco companies are basically in the nicotine business. . .Effective control of nicotine in our products should equate to a significant product performance and cost advantages.

That is a pretty cynical statement. It reflects the fact that the tobacco industry knew they were selling an addictive product.

> Nicotine is the addicting agent in cigarettes.

The evidence is beyond question. They knew that it was a poison, that it killed people, and they knew it was addictive.

Second, there are some who may say, ''Well, they don't really target kids.'' That is very hard to defend also because the facts speak for themselves from their own documentation. They look on kids as their source of future revenues.

This is from the RJR documents of 1974:

> Let's look at the growing importance of the young adult in the cigarette market. In 1960, this young adult market, the 14–24

group, represented 21 percent of the population . . . they will represent 27 percent of the population in 1975. They are tomorrow's cigarette business.

How cynical could you be? Let's first produce a product that kills you, let's make it addictive, and then let's target it at kids.

Mr. KERRY. Will the Senator be willing to yield for a question?

Mr. GREGG. I would like to complete my statement, and then I will yield.

In 1974, ''Marlboro dominates in the 17 and younger age category, capturing over 50 percent of the market.''

Obviously, Philip Morris knew that Marlboro was making money in that area.

I will not read the next statement, but it has the same context. Kids were the target.

So we have here, as I mentioned earlier, the concept that we are going to be giving immunity, for the first time in our history, to an industry. What industry do we pick? Do we pick the people who are making heart valves so you can live longer? Do we pick an industry that makes hip joints to make you live longer? Do we pick the industry that is making a drug that will maybe make your life easier? Do we pick an industry that makes cars so you can get places faster? No. We pick an industry which targets kids with a poisonous product that they made addictive. And they knew it all along.

The last argument that we hear is,

We can't do this bill unless we have the tobacco companies cooperate, and we can't have cooperation unless we have some sort of immunity for the tobacco companies, unless we give them this historic new authority and protection.

First off, that is not true. The vast majority of the advertising controls that we think are needed can be done without the tobacco companies' participation. Yes, there are some issues of the first amendment that we can't step over. But for the most part, we can do a great deal to limit their access, especially to kids.

Second, we can compete with them. We can produce our own advertising programs, which compete much more aggressively than they can in the marketplace. Of course, that is the traditional American way: Make the point, make it effectively, that tobacco kills.

But, most importantly, I think it ought to be pointed out here that we are making a deal with the Devil and the Devil walked away from the table. There is no tobacco company participation in this process any longer. Here we are offering them the most significant legal protection probably in the history of the country in exchange for them being willing to give us some limited ability to limit their advertising activities, and they are not even at the table to accept the offer. In fact, they have walked away from the table. They said they don't want to have anything more to do with this process.

The quote from the head of RJR is:

The extraordinary settlement, reached on June 20th last year, that could have set the Nation on a dramatically new and constructive direction regarding tobacco, is dead. And there is no process which is even more remotely likely to lead to an acceptable comprehensive solution this year.

With that statement, he walked out. He said, I am not going to participate in this and tobacco is not participating in this anymore.

So you have this almost pathetic situation where the U.S. Congress is passing immunity and giving this outrageous new authority to the tobacco companies to protect them from lawsuits. The tobacco companies have walked away, and the U.S. Congress is sort of chasing after them on bended knee, saying, ''Please, tobacco companies, please, tobacco companies, please take our offer.''

My goodness. First, we make a deal with the Devil, and then we chase after him asking for him to take our deal. I mean it is just ridiculous, it is inappropriate, it is not becoming of the Congress, and it is wrong.

The language which Senator LEAHY and I have proposed here is essentially the same language which was in the original HEALTHY Kids bill, which was endorsed by the White House. I regret that we have not received White House support for reinserting this language. I regret that the leadership within this Congress has not supported the insertion, although on the House side I note, I believe that the Speaker supports no immunity language, although I don't want to speak for him. I have read reports to that effect.

But the point is that this is not dramatic language, it is not outrageous language, it is the language that was in the original HEALTHY Kids bill, and it essentially says no immunity. It says what this Senate said back when we passed the sense of the Senate 79 to 19: No immunity for the tobacco industry, because they don't deserve it, it is wrong, and it is inconsistent with the capitalist system.

Mr. LEAHY. Will the Senator yield for a question?

Mr. KERRY. Will the Senator yield for a question?

Mr. GREGG. I yield to the Senator for a question. The Senator from Massachusetts had a question. And then I will yield to the Senator from Vermont.

Mr. KERRY. I thank the Senator. I know the Senator from Vermont has to go somewhere.

I want to ask the Senator if he is aware that there is a real distinction between the notion that he has been using called ''immunity'' and a limit on the exposure of liability. In fact, in this bill there is no immunity. They are liable for up to $8 billion on an annual basis. So that is not immunity.

Will the Senator not agree that the use of the word ''immunity'' is, in fact, an exaggeration?

Mr. GREGG. No, I would not. I happen to think the use of the word ''immunity'' is correct. The fact is that we are setting up a new structure here where, for the first time, we are giving product liability protection to an industry which clearly doesn't deserve it. The term ''immunity'' has become a term of art relative to that discussion. From my standpoint, the term of ''immunity'' properly defines that. If the Senator from Massachusetts wishes to define it in a more narrow sense and say, ''We are giving them product liability protection but we are not giving them immunity,'' that is the Senator from Massachusetts's definitional approach, and that is fine. But the point is the same. We are creating a unique, unusual, significant action which changes the jurisprudence that has dominated the marketplace in this country for 200 years.

Mr. KERRY. Will the Senator yield for a further question?

Mr. GREGG. Certainly.

Mr. KERRY. The Senator is aware, obviously, that Minnesota settled a lawsuit. Minnesota settled a lawsuit, and other States have settled lawsuits, and in those settlements there is, in fact, the same kind of structure contemplated in this bill. That is part of the system of jurisprudence, is it not? It is a normal part of how you arrive at a settlement of a dispute?

Mr. GREGG. First off, there is no lawsuit against the Federal Government. So that I don't think is applicable. I don't serve in the legislature of Minnesota. If I did, I certainly would not have agreed, and I would change the law of Minnesota to not allow that settlement to have gone forward should that decision be found to be constitutional, which I don't know whether it will be or not.

At this time, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Arizona.

Mr. MCCAIN. I will be brief. I want to say to the Senator that I will be very brief.

Mr. President, I yield the floor.

Mr. SESSIONS. Mr. President, is there an order of procedure, informal or otherwise?

Mr. LEAHY. Mr. President, I note that my good friend from Arizona, who is managing the bill, sought recognition, and I will be perfectly willing to yield to him for that.

Mr. MCCAIN. I thank my friend.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I rise in strong support of this amendment of my friend and my neighbor from New Hampshire. I was thinking about this. I thought to myself, why should we give big tobacco any special legal protections? My friend from New Hampshire said that we are not doing this for a medical company because they build some new kind of heart valve, and to get it out, we will give them special protection; or somebody else comes up with a new cancer drug and we want to give them special protection. We are

being asked to give this special protection to tobacco. I have to tell you, Mr. President, I don't have a whole lot of people in Vermont rushing up to me and saying, ''Oh, please, please, please, give immunity to the tobacco companies. This is our No. 1 priority.''

In fact, this is whom they are asking to give immunity to. Mr. President, look at this stellar group standing, raising their hand, swearing to tell the truth, the whole truth, nothing but the truth, and then they sat down and lied. I remember my days as a prosecutor. We used to see lineups like that, but they were usually a different type of lineup and you had numbers across the front.

These are not the people I want to give immunity to. These are not the people I want to go back home to Vermont and say, ''I voted to give them immunity.'' In fact, yesterday the former Surgeon General, Everett Koop, and the former FDA Commissioner, Dr. Kessler, endorsed the Gregg-Leahy amendment because they know Congress can protect the public health without having to protect big tobacco.

This really comes down to the issue of, Do you have to protect big tobacco in order to protect public health? I say no. What we should be doing is protecting public health, that is it, not protecting big tobacco.

Now, the Senator from Arizona, Mr. MCCAIN, the Senator from South Carolina, Mr. HOLLINGS, and the White House have done a great job in narrowing the list of special legal protections in the managers' amendment, and I compliment Senator MCCAIN, Senator HOLLINGS, and the White House for what they have done. But now that the Senate begins floor debate on this revised bill, we have to go beyond that. We have to take the great work that my neighbor from Massachusetts, Senator KERRY, and the others I have named have done. Then we have to say, once and for all, we are rejecting the tobacco industry's siren song for unprecedented legal protections.

I applaud Senator KERRY and Senator MCCAIN and Senator HOLLINGS and the White House for going as far as they did, but I want to now go further, lock the door, close the door once and for all, and allow us all to go back home to our States and say we stood up to big tobacco, we voted against immunity. It is time for Congress, and especially the Senate, to scrap the last remnants of the original sweetheart deal of immunity for the tobacco industry. That was the sweetheart deal that was in the proposed national settlement.

In theory, the tobacco industry will restrict its future advertising in exchange for legal protections from past punitive damages and other past and future damages. I reject this mirage of a deal because it will evaporate in a court of law. Any affected industry that is or is not part of the deal, such as a retailer or distributor or even a tobacco company, might sue to block these restrictions as being in violation of the first amendment.

Many advertising experts, including the head of the Federal Trade Commission, predict such a suit will succeed in throwing out the advertising restrictions as unconstitutional. In the end, Congress will have been duped again by the tobacco industry. They will have given unprecedented legal protections in exchange for empty promises. They will have said, ''You guys fooled us before when you testified under oath, but we know you have now found religion and you are going to be fined this time and you haven't fooled us again.'' It reminds me of Charlie Brown and the football: ''Don't worry, Charlie Brown, I won't pull the ball out this time.'' And we see that, of course, every year. Out goes the football, and flat on his back goes Charlie Brown.

Well, let's not do that to the people of this country. We have learned a lot more about the industry's schemes. We have seen what Attorney General Skip Humphrey in Minnesota has pried loose from the hundreds of thousands of internal tobacco documents. Let's take a look at some of this.

Let's look at some of these things that came out of Minnesota, the released tobacco documents. Now, this is just marketing that is aimed at children. Look at this one:

> To ensure increased and longer-term growth of Camel Filter, the brand must increase its share penetration among the 14–24 age group which represents tomorrow's cigarette business.

Mr. President, this is not a typographical error. They are talking about how they will increase—not just to start people at 14 years old but how they will increase the market among 14-year-olds.

Philip Morris starts off being a little bit more responsible by saying:

> Marlboro dominates in the 17—

But then we see—

> and younger age category.

RJR ''Product Research Report'':

> Salem King shows encouraging growth by posting a four point gain in the 14–17 market.

You wonder if whoever wrote this about encouraging growth, do they have children of their own? Do they have children of their own that they would brag about that?

Or look at Brown & Williamson:

> At the present rate a smoker in the 16–25 year age group will soon be three times as important to Kool as a prospect in any other broad age category.

Again, Mr. President, as a parent, I find this reprehensible. To them this was just marketing, and is that the kind of conduct that we should reward with unprecedented legal protection, that we should reward people who target 14-year-olds? To use the language of the same 14-year-olds, get real. We can't do it. If we grant immunity to this special rogue industry, we have lost all our common sense.

But if we go with the bill as now written, we will establish an $8 billion annual cap on damages for tobacco claims. That is about $20,000 per family for the 400,000 Americans who die from tobacco-related diseases each year. These are special provisions. They are unnecessary. Why should the industry stop marketing to children? Why should they stop manipulating nicotine? Why should they stop cutting health research when they know this liability cannot exceed a certain amount? If they know the liability is capped, then it just becomes a marketing ploy.

Some might say, ''Well, they would not do that because they promised us.'' This is like saying the check is in the mail, I gave at the office, or a few other versions of that. Why should anybody trust them? I do not. A liability cap eliminates the incentive for the tobacco industry to change its corporate culture. It is kind of like having two warehouses side by side and one has got locks on the doors and one doesn't. And you have somebody who is inclined toward burglarizing a place, and they say, ''Oh, I promised not to burgle those places.'' Well, they are not telling us the truth. We know which one they are going to go into. They are going to go into the warehouse without the lock. Let's put some locks on it.

I think, if you don't have the incentive of real liability facing them, the promises they make to get the Congress off their backs today are the promises that will be forgotten tomorrow. If big tobacco could turn its liability exposure to fixed costs which they could pass on to consumers and taxpayers, then they can keep on doing business as usual without the risk of litigation.

How will the liability cap work? Will it reward today's plaintiffs at the expense of future injured parties? Because most lawsuits settle, I believe the tobacco industry will have a unique negotiating edge if they have a liability cap. The industry will have every incentive to do sweetheart deals with favorite plaintiffs—do that first, then use the prospect of delayed payments in the future to force smaller settlements. A payment delayed will result in justice denied for thousands of tobacco victims.

I said earlier, each week, when I go back home, I don't have a lot of my fellow Vermonters coming up to me and saying, ''Hey, PAT, give immunity to the tobacco industry.'' We Vermonters are known for our common sense. My fellow Vermonters are telling me that immunity for big tobacco makes no sense. In fact, the Vermont legislature overwhelmingly, Republicans and Democrats alike, passed a resolution condemning any immunity for the tobacco industry in Federal legislation. I think that is because the American people outside the beltway understand that big tobacco does not deserve any special legal protections.

I take seriously the admonition of Mississippi Attorney General Michael Moore, whom I respect greatly, who told the Senate Judiciary Committee last year that the proposed settlement

offers Congress a historic opportunity to seize the moment and protect the health of future generations. But I believe that we can seize this historic opportunity to curb teenage smoking without giving big tobacco any special legal protection. Under our amendment, a State may resolve its attorney general's suit or take on the tobacco industry in court, as Minnesota did. It is up to the people of that State, instead of Washington. That is the same approach used in the Conrad bill that has, I think, 32 cosponsors.

I am confident in my State of Vermont, Attorney General William Sorrell knows the facts in his lawsuit against big tobacco. He is going to weigh the interest of Vermonters in deciding to opt out of the bill's settlement provisions. As one Vermonter, I am perfectly willing to put that decision in the hands of our elected officials in our State.

Our approach puts the interests of the children ahead of the interests of the tobacco lobby. The public health community agrees that immunity for the tobacco industry makes no sense. The Advisory Committee on Tobacco Policy and Public Health, headed by Drs. Koop and Kessler, wrote to Congress:

> We oppose granting the tobacco industry immunity against liability for past, present or future misdeeds. Congress should focus its efforts on public health, not on the concessions the tobacco industry seeks.

I agree. I agree. Dr. Koop called a liability cap a huge corporate giveaway. He is right. I agree. After all, the only reason we are here—and it is really a credit to it—is our civil justice system. In fact, without the use of class actions, without the likelihood of punitive damage recoveries, we all know tobacco companies never would have come to the negotiating table. So let's not change our successful State-based tort system as it involves tobacco legislation. It has served us well. After all, the same people who were in the picture I showed earlier, raising their hands, swearing they will tell the truth, the whole truth, nothing but the truth so help me—and I think they were swearing on a tobacco leaf because now the Department of Justice is currently investigating them for criminal conspiracy and perjury. I would say, if I can move that metaphor a little bit further, strip away the tobacco leaf and see what is hidden behind it. I am not going to give legal immunity to the same people who appeared here and lied to Congress while under oath.

Why in the world do we want to give big tobacco such legal protections? Rely on common sense. Rely on the things I hear from my fellow Vermonters as I am in the grocery stores back home. Rely on what I hear, as I am walking down the street, from Vermonters of all political persuasions. Rely on the common sense I hear from my neighbors and friends of a lifetime back home. Then we will reject the unprecedented legal protections for the tobacco industry, and we will vote for the Gregg-Leahy amendment.

I believe it makes sense. I certainly find myself in total agreement with what the distinguished Senator from New Hampshire, Mr. GREGG, said. That is the way I feel about it.

I understand from earlier discussions with the distinguished leader we may not vote on this today; we may vote on it tomorrow. But whenever we do, think what is in the best interests of the country. Think what is in the best interests of the people. And think, every Senator, how you would answer this question when you go home if you are asked: Are you willing to give immunity, even limited immunity, to the tobacco companies or not? If you are not, then you vote for this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I have listened very carefully to both of the proponents of this measure, for both of whom I have respect. But I must say this amendment is really not connected to the reality of what is in this bill or the reality of what we are trying to achieve with this bill. And I say that respectfully.

You might dub this amendment the ''kick the tobacco companies hard no matter what the consequences'' amendment. This is the amendment if all you want to do is hate the tobacco companies, all you want to do is come here and show photographs of children or show us how terrible the companies have been. Nobody is going to argue. We all know that. We know the companies have lied. We know they have been egregious in their behavior. We know they targeted young people in this country. We know they have come to the Congress, raised their hands, and not told the truth. We understand all of that.

The question is, What are we going to be able to achieve here in the U.S. Senate in terms of conditioning their behavior, within the limits of our Constitution, within the limits of our ability to do so. We have heard the words said that the tobacco companies ''do not deserve immunity.'' That is correct. They do not deserve immunity. And they are not receiving immunity under this bill. There is no immunity. They are liable. There are simply two choices as to how they are liable.

They can be liable by paying the annual payments that will now come from the $1.10 that appears to be at least settled for the time being. They will pay from that. And they will, in addition to that, have very, very rigorous so-called look-back assessments. They will have to live up to those look-back assessments. Where, if they do not achieve a specific level of reducing smoking among teenagers, then they get hit harder. They pay more. They pay more as an industry, up to $4 billion on any year, and they pay more per child that is deemed not to be meeting that level of reduction—$1,000.

That is a pretty steep penalty, $4 billion plus the assessment per child if they don't meet the reduction levels; that is, if the companies do not decide to be part of the solution. If all they do is get assessed the $1.10 assessment, and all they do is meet the standards of the look-back, they are subject to suit forever—forever. There is no immunity. They are liable. They are liable—not even under the cap. There is no cap under those circumstances. I ask my colleagues to focus on that in this bill. This is a two-part bill. One part offers the companies the opportunity to be part of the solution. Only if they become part of the solution does there then apply a so-called cap on annual payments.

Even if there is a cap on annual payments, there is no immunity; there is no avoidance of liability. We heard my colleagues stand here and say—let me quote it: ''The liability cap permits them to avoid changing the corporate structure.''

Not true, Mr. President. The liability cap does not permit them to change to avoid it. In fact, they only get a liability cap if they agree to change the corporate structure. That is the way it works now. The incentive of the cap is the commitment to change the corporate structure. If they change the corporate structure by agreeing to live by the FDA rules, by agreeing to live by the advertising restrictions, by agreeing to a whole set of requirements, that is the only way they qualify for the so-called cap.

The cap is annual. That is not immunity. That means they can be charged up to $8 billion in the industry for every year on into the future, and it is indexed, incidentally, for inflation. That is immunity? That is why so many people are on the floor saying, ''Hey, wait a minute, what are you folks doing in the U.S. Senate?'' because there are some people here who think that is too tough.

The fact is, and I emphasize this again and again, there are two choices for the companies: They can either take the assessment, be assessed the $1.10 and have the look-back provisions hanging over their heads and be sued and sued and sued by a State or an individual on into the future, or they can decide they are going to sign up.

What are they going to sign up to? Each company will sign up to a whole set of restrictions—FDA advertising restrictions, they would make a substantial up-front payment, they would abide by the far broader advertising restrictions that were in the June 1997 settlement, they would create a document depository, and they would agree not to challenge provisions in the bill and to abide by these provisions, notwithstanding any future decision from the court on constitutionality.

That is really critical, Mr. President. We are asking these companies to do a whole bunch of things that we can't get them to do unless they agree. We can't mandate that they give up their constitutional rights. No matter what we

pass here, these companies have constitutional rights under the first amendment. They have to come in and sign a consent decree and sign an agreement, and they have to agree, among other things, that there will be no billboards within 1,000 feet of a school; that all advertising will be black and white text unless in adult-only stores; that all advertising in the text must be in black and white, unless in magazines with 15 percent or less youth readership; it prohibits the sale or give-away of any products with tobacco logos; it prohibits brand name sponsorship of sporting and entertainment events.

We can't do those things, unless the tobacco companies agree. What they agree to is that they will do that. Even if the court decided later that it is unconstitutional, they will abide by it. How are we going to get them to do that? How are we possibly going to get these tobacco companies to become part of the solution of keeping our kids from doing things unless they agree to do it, and the fastest way to keep them from agreeing to do it is to say to them, ''We're just going to kick you around forever and forever, be subject to lawsuits forever and forever'' and not offer some incentive to come on board.

I reiterate, that is not immunity, it is a deal. It is a deal just like the attorney general of Minnesota made, the attorney general of Mississippi and the attorney general of Florida. That is what happens in the courtrooms of our country every single day. If you bring a lawsuit, as 44 attorneys general have done, then you go to court. But many of these cases come to some kind of settlement before they ultimately go to a jury verdict.

I remind my colleagues, the Senator from New Hampshire and the Senator from Vermont, in all of the years of bashing tobacco, in all of the years of hating tobacco, in all of the years of summoning up these speeches that whack them apart and say what they have done, not one lawsuit has been won in a courtroom. Not one.

What my colleagues are suggesting is that somehow the country is going to be better off by allowing that status quo to continue; that all we are going to do is have a bunch of lawsuits rather than trying to bring the companies into the process of helping to resolve this issue.

Again I say, if you want to have a document depository which, incidentally, helps people continue to sue and they are able to continue to sue up to the level of the $8 billion per year, that is not immunity. The best of my judgment is that is a limitation on the exposure of immunity. It is a limitation on the degree to which you are going to have to pay out in a given year, and that is precisely the kind of certainty that the tobacco companies and the attorneys general were trying to achieve in the agreement they came to last year.

Here we have in front of the U.S. Senate the opportunity to raise the price and the opportunity to have very stiff look-back provisions that will hang over the heads of the company. Let me just cite what those are, Mr. President, if you don't think those aren't tough. There are two look-back assessments. There is an industry-wide assessment and there is an individual assessment.

Under the industry-wide assessment, the industry is going to have to reduce youth smoking 15 percent in years 3 and 4, 30 percent in years 5 and 6, 50 percent in years 7 and 9, and 60 percent in years 10 and beyond.

If the industry fails to meet these targets, then there will be a graduated industry-wide assessment of the following amounts: $80 million per point for missing the goals by 1 to 5 percentage points, $160 million per point for missing the goals by 6 to 9 percentage points, and $240 million per point for missing the goals by 10 or more percentage points.

The total industry assessment will be capped at $4 billion per year, which is about 22 percentage points, and this will not be tax deductible. If the industry fails to meet the youth smoking targets, they will have to pay about 27 percent per pack. In addition to that, there will be a company-specific amount of an assessment annually—$1,000 for each child who uses tobacco beyond the youth smoking reduction targets.

Mr. President, there is no way to suggest that that is immunity. You can't be required to engage in that if you, in fact, have immunity. If you have immunity, you walk away free. Immunity means you are not going to be prosecuted. Immunity means you don't pay. Immunity means there is no price. There is clear liability here and the liability, I think, is serious.

A final comment I will make is that participating manufacturers—and this is very important—must agree to comply with all of the provisions in the act, including the provisions in look-back and in the annual assessments. They must also agree not to bring any court challenges to any provision in the act.

I ask the Senator from New Hampshire rhetorically, we can't get them to agree not to go to court. They are already challenging the FDA rule. They are clearly going to challenge the constitutionality of the look-back provision. The only way we can get them to participate is by offering something, and the something is that you are going to settle the lawsuits and you are going to have the ability to give them certainty as to how much their liability is on an annual basis.

Also, they will agree to abide by the provisions in the act, including the annual payment in the look-back provision, even if a third party challenges that provision and it is declared void by a court.

I emphasize that. Even if a third party challenges it, the tobacco companies that sign the protocol and agree to get the $8 billion limitation on their annual liability will still have to agree to live by it. If any of them break any component of this act, they have no cap at all. They are subject to exactly what the Senator wants.

Here is the choice for the U.S. Senate: It is a choice of whether we are going to have a piece of legislation that makes sense, that is built on common sense, that tries to bring the companies into the fold, that tries to create a solution for this problem, or you just come out here and feel happier bashing the companies.

And I think the choice is very, very clear for the Senate. I think the Senator from Arizona, and Senator HOLLINGS, and the others who have worked on this particular effort to create this structure have struck a balance of that common sense and of a way of achieving the goals of the Senate.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. I will be brief, because I do not want to take the time from the Senator from Alabama who is going to speak next.

So I just mention administratively that, after discussion with the Senator from Massachusetts and with the majority leader, it would be our intention to have either a tabling motion or an up-or-down vote on this amendment and the second-degree amendment around 10 o'clock tomorrow. It is my understanding that we will be in at about 9:30, and that would give a half-hour tomorrow morning. So whether we have the unanimous consent agreement or not, that would be the intention of the Senator from Massachusetts and myself.

Second, the majority leader has asked me to announce that there will be no further rollcall votes tonight.

I would like to say, and point out to my colleagues, that I have heard all day today that some of my colleagues have felt that they have not been able to speak on the bill. There are others who want to speak on the amendment. I encourage you to come over. As I mentioned earlier, the Senator from Massachusetts and I will remain here until such time as everyone is heard both on the bill and on the amendment.

So finally, Mr. President, I just received a letter from the President addressed to Senator LOTT expressing President Clinton's opposition to the Gregg-Leahy amendment. I ask unanimous consent that that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, May 20, 1998.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR MR. LEADER: I applaud the Senate for taking up comprehensive, bipartisan legislation to dramatically reduce teen smoking.

Every day, 3000 teenagers start smoking regularly, and 1000 will die prematurely of smoking-related diseases as a result. I urge the Senate to move swiftly to pass comprehensive legislation that could save those children's lives.

Last September, and in my budget plan, I set forth five principles for comprehensive tobacco legislation: Raising the price of cigarettes by $1.10 a pack over 5 years with additional surcharges on companies that continue to sell to kids; affirming the FDA's full authority to regulate tobacco products; getting companies out of the business of marketing and selling tobacco to minors; promoting public health research and public health goals; and protecting our tobacco farmers and their communities.

I have made protecting tobacco farmers and farming communities a top priority for this legislation, and I believe Senator Ford's LEAF Act fully meets this standard. I am deeply troubled by the Senate Leadership's recent attempt to undermine protection for tobacco farmers and their communities. I urge the Senate to work through this impasse and ensure that small, family farmers are protected.

If that issue can be resolved to my satisfaction, the bill before the Senate, as amended by Senator McCain's Manager's Amendment, is a good, strong bill that will make a real dent in teen smoking. Congress should pass it without delay.

I applaud Senator McCain and others in both parties who have worked hard to strengthen this legislation. I am particularly pleased that the bill contains significant improvements which will help reduce youth smoking and protect the public health:

Tough industry-wide and company-specific lookback surcharges that will finally make reducing youth smoking the tobacco companies' bottom line;

Protection for all Americans from the health hazards of secondhand smoke;

No antitrust exemption for the tobacco industry;

Strong licensing and anti-smuggling provisions to prevent the emergence of contraband markets and to prosecute violators;

A dedicated fund to provide for a substantial increase in health research funding, a demonstration to test promising new cancer treatments, a nationwide counteradvertising campaign to reduce youth smoking, effective state and local programs in tobacco education, prevention, and cessation, law enforcement efforts to prevent smuggling and crackdown on retailers who sell tobacco products to children, assistance for tobacco farmers and their communities, and funds for the states to make additional efforts to promote public health and protect children; and

The elimination of immunity for parent companies of tobacco manufacturers, an increase in the cap on legal damages to $8 billion per year, and changes to ensure that the cap will be available only to tobacco companies that change the way they do business, by agreeing to accept sweeping restrictions on advertising, continue making annual payments and lookback surcharges even if those provisions are struck down, make substantial progress toward meeting the youth smoking reduction targets, prevent their top management from taking part in any scheme to promote smuggling, and abide by the terms of the legislation rather than challenging it in court. Because the First Amendment limits what we can do to stop the tobacco companies' harmful advertising practices—which lure so many young people to start smoking—we can do far more to achieve our goal of reducing youth smoking if the companies cooperate instead of tying us up in court for decades. If a cap that doesn't prevent anybody from suing the companies and getting whatever damages a jury awards will get tobacco companies to stop marketing cigarettes to kids, it is well worth it for the American people. I, therefore, oppose the Gregg Amendment to strike the liability cap.

I strongly support these improvements, and I urge the Senate to pass this legislation without delay.

Sincerely,

BILL CLINTON.

Mr. MCCAIN. Mr. President, I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I know the Senator from Alabama has been waiting. I just misspoke on one thing, and I want to, if I may, correct it, take 2 minutes, and then I will yield the floor.

When I talked about the things that the advertising is going to require, that was the components of the FDA rule itself. I want to just share with my colleagues how, by bringing the companies in, it goes way beyond the FDA rule, because they would then be agreeing to have a ban on human images, animal images, and cartoon characters. They would agree to a ban on outdoor advertising, including stadia and mass transit, they would agree to a ban on Internet ads accessible to minors, and they would agree to severe restrictions on point-of-sale advertising of tobacco products. All of those things are what you get for having the companies agree to be part of the process.

The final comments I would make is, I began the process very much feeling that there should not be sort of a restraint liability, in a sense. When we sent this bill out of committee, there was a great deal more restraint with respect to liability. And since the Commerce Committee effort in putting the managers' amendment together, we have taken out an extraordinary number of those restraints. I will not go into detail now, but all of them were taken away, so that there was considerable increased exposure of the companies, which is one of the reasons why the companies are spending so much money now advertising and trying to refocus America on what this bill is not. And I think that is a critical thing for us to keep in mind.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. KERRY. I thank my colleague for his courtesy.

Mr. SESSIONS. I thank the Senator from Massachusetts for summarizing many of the very significant restrictions that will be placed on the tobacco companies if they participate in the settlement.

But I really do believe, and can say with great confidence, that we are not dealing with a question of immunity when an industry agrees to pay $750—$70 billion in payments to subject itself to many other controls and limitations. That is not immunity. And in fact, they have agreed, in addition, to pay $8 billion into a fund that would be available for individual liability lawsuits—each year, $8 billion. It goes up according to the cost of living index.

So I just say, this is a remarkable settlement. And it reminds me of the case in which the client sues and gets everything he wants but he still wants to keep suing because he wants to get a drop of blood.

Now, let me say this. I am not a defender of tobacco. I do not take any money from the tobacco industry. I believe it is a very damaging product to people's health. I know that as certainty as I am able to know anything. I oppose its use. I believe anything we can do particularly to keep youngsters from getting involved in tobacco is good, because it is more difficult for them to quit once they start, and they become addicted quicker at a younger age. It is a very insidious product, and we ought not to do anything that would undermine our effort, that I think has bipartisan support, to deal with smoking in America.

Let me talk about this subject on a broader basis. And I think our Members ought to consider this on both sides of the aisle. It is above partisan politics. In my view, the law is too much with us late and soon. We have too much litigation. Courts are clogged all over America with more and more lawsuits every day. People cannot get speedy justice. Cases are backed up. Costs have increased. And it is not a pretty sight.

As policy-setting Members of this Government of the United States, it ought to be our goal to reduce that litigation, to do what we can to obtain justice in ways that do not require citizens of this country to expend extraordinary sums of money over long periods of time for only modest gain at the end of it. That is a principle in which I believe deeply.

I have been a practicing lawyer all my career. I served as a U.S. attorney for almost 12 years, and I practiced law in private practice.

Let me just mention the asbestos litigation situation. Asbestos caused a number of different diseases that have resulted in large payments by the asbestos companies. This was handled, in the normal litigation of America, in the torts lawsuits that have been filed. Over 200,000 of those lawsuits have been filed and concluded, 200,000 more are pending, and it is estimated there may be another 200,000 filed.

Now think about that. That is 600,000 lawsuits, perhaps more, having to wind their way through the court system, with lawyers, and fees, and costs, and expenses. According to testimony we had before the Judiciary Committee by one expert who studied this matter, less than 40 percent of the money paid by these asbestos companies actually got to the victims, the people who were suffering disease because of their exposure to asbestos. Just think about that. Less than 40 percent of the money they

paid actually got to the victims of asbestos disease.

I think that is unacceptable. That is an unjustifiable event. It does not reflect credit on the legal system, and it does not, even more so, reflect credit on the Congress and the Senate of the United States, because we should have legislation that can deal with that in a more efficient way.

So I just say, I am troubled by the prospect that we will allow litigation to spring up all over America, that we can have a fund there to pay it, that we will have not 200,000 smoking suits, as they had in asbestos, but perhaps 500,000, 800,000, a million, several million lawsuits filed—tens of hundreds, maybe thousands in every community in America, large and small, where lawsuits will be filed, clogging the dockets of the courts, taking up weeks to try, and incurring great expense. It seems to me we can do better than that. I am certain that we can do better than that.

What happens when a lawsuit of this nature is filed? And I have to agree with Senator GREGG from New Hampshire: This bill is not effective in what it intends to do. It needs to be amended. And Senator JEFFORDS from Vermont and I will be introducing legislation on this bill, an amendment, that will distribute moneys that are paid in a fair and equitable manner, with the minimum of cost and the quickest possible turnaround time, so the people who are ill can receive compensation which they deserve, receive it quickly, without even having a lawyer.

Under the court system approach, just turning over tobacco lawsuits to litigation throughout America, we are talking about individuals having to hire attorneys. The Wall Street Journal has already noted that attorneys—I believe, in Detroit or Chicago—are advertising for tobacco clients now. They are already advertising for clients so they can file lawsuits. Traditionally, they will charge at least one-third, probably more of them will charge 40 percent of the recovery on a contingent fee basis. That means 40 percent of the money paid out by the tobacco company won't go to the victim, but will go to the attorneys. In addition to that, there will have to be trials, court costs, jury costs, deposition costs, medical costs, expert witness costs, and great delays.

Before you can get any money out of this bill, you have to have a final judgment. Normally that would mean a judgment by the supreme court of the State, which may be 2 years or more in the offing. The result of that, I suggest, for people who are suffering from lung cancer is that many of them, unfortunately, would not live to see any recovery.

The Senator from New Hampshire is also correct that it appears under this bill the tobacco companies decide who gets paid. I don't know how that came about, but it indicates they pay whoever they want to pay and that counts toward their payment into this fund. That is not a rational way to see that injured people get paid. They should not be required to do that. It will also cause a race to the courthouse because you don't get any money until you have a final affirmance of your judgment, and only then can you come to the tobacco company and get your payment.

We should not be put in a situation in which two equally deserving claimants have filed a lawsuit and one wins and he has a fast court system and he gets into the fund and gets his money first and another one takes a long time before he ever gets his final judgment, before he gets money. We are creating a system that will be aberrational.

It will be aberrational in a number of other ways. Some States will be favorable to these kind of lawsuits. Some States will not. Maryland has already changed its law to make lawsuits against tobacco companies easier to file. Other States may do that. Traditional defenses such as assumption of the risk and contributory negligence may be vitiated by legislation or court rulings, and lawsuits will move faster and more successfully in one State, whereas another State that adheres to traditional rules of law may not allow cases to move forward at all. It may be unsuccessful wholly in one State. Indeed, we could have one or more States virtually bankrupting the tobacco industry themselves if they were to have unfettered litigation cases of this kind.

As a person who has practiced law for a long time, who has been in court on a consistent basis, I can tell you that the prospect of hundreds of thousands, maybe a million tobacco lawsuits being filed, burdening the judges and courts to a degree they have never known before is not a good thing. The taxpayers pay for that. Some will say it is a free-market deal. Just let people file their lawsuits and the government is not involved in it. The courts are the government. Courts are the government. The taxpayers are paying for the judges, the jurors, the clerks, the court reporters and everybody that manages a courtroom, and the courtrooms in which these cases are tried. The taxpayers are intimately involved in that.

We can do a lot better than this. I just say we cannot allow a repeat of the asbestos litigation situation. We cannot, as Members of this body, allow a situation to occur in which less than 40 percent of the money paid out actually gets to the people who are victims of the crime. They will say, well, in this bill they have arbitration over attorney's fees. I have heard that. So I have gone back and read the legislation. This is the arbitration: If you are unhappy with the agreement you have with your attorney, you can go to an arbitrator. The attorney gets to name one member of the panel, you get to name one, and those two select a third. But if you have a standard agreement with them on a one-third or 40 percent contingent fee basis, 40 percent of what you recover goes to the lawyer if you have that kind of an agreement. That is what the arbitrators are going to affirm. They are not going to undercut written contracts between attorneys and clients the way this thing is written.

So there is no protection here to substantial fees being paid to attorneys in all of these cases. We know it will take years for them to be concluded. There will be a race to the courthouse to get judgment. Some States will allow suits to proceed. Others will not. Some people will draw a favorable jury, win a big verdict, $100 million; somebody else will have a jury that is more conservative and renders no verdict, zero verdict. This is not the way we ought to do it.

On this legislation, we begin the process of establishing a sane and rational method of distributing the funds that ought to go to those who have been injured by tobacco. However, the problem with it is it does not go nearly far enough. This is a classic mass tort situation. The greatest mass tort situation, perhaps, in the history of mankind in which millions of Americans have smoked for a long time and they have hurt and damaged their health because of it, and as a result of that they now want to seek compensation.

First, let me say something. I have to be very frank. No individual person has succeeded in a lawsuit against a tobacco company, primarily because of the traditional rules of law that say if you undertake a dangerous activity and you are injured in that, you cannot sue somebody and ask for compensation because of it. The way this bill is written, I believe the likelihood is we will have more States like Maryland amending their law, more pressure on judges and juries to get around the traditional defenses to these kind of activities, which is somewhat dangerous, because what about the liquor companies and cirrhosis of the liver or other kinds of diseases that come from other kinds of products. Is there no barrier to that anymore?

I will say we have a major mass tort situation. We ought to deal with it in a comprehensive manner. We should not allow an unfettered lawsuit flood to dominate the American court system, resulting in some people winning large verdicts, others getting nothing, delay, people dying before they have any recovery.

Senator JEFFORDS and I will be introducing a bill that will say if you have a serious disease and have been disabled because of your smoking, you can file a claim and within 90 days you can be paid. You will not even have to have an attorney. We will limit the cost to 10 percent and we will dispense the moneys based on the seriousness of your disease, the seriousness of your disability and whether or not it is connected to smoking. That is the kind of thing we can do. We can use this money that the tobacco companies in this litigation demand that they pay—

$8 billion a year—and we can use that to compensate in a prompt and fair way those who have been injured. To do otherwise is just not a good way to do business. It will enrich lawyers, it will burden the courts, and it will guarantee an irrational distribution of funds to those who have been injured and minimize the amount of money actually getting to those who deserve to be compensated.

I will say that I do believe that this amendment should not be passed, that the payment of $755 billion, the agreement to give up certain constitutional rights such as free speech and advertising is the kind of settlement that is justifiable and proper under the circumstances. We would make a historic step forward for America if we can develop a way to ensure that those who are injured in a mass injury-type situation such as this are compensated in a realistic and prompt way. I believe we can do that. For these reasons, I must ask my fellow Senators to vote no on the Gregg amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I come to the floor to make a general statement about the legislation.

Let me say this to begin with: I am very concerned by the speed with which this bill has come to the floor. It has really foreclosed any real financial analysis—no joint tax figures that are adequate, no CRS analysis, no CBO study.

For me, who represents California, there is a certain irony in passing a bill under these conditions. That irony is what we do that we believe is right for people may turn out to be very harmful for those very people. And I want to say what I mean by this. I want us to pass a good bill. What is a good bill? It is one that deters smoking; it doesn't create a huge black market; it is constitutional; it would give the FDA full authority to regulate the contents of nicotine; it would prohibit all advertising, which to me is very important, not the kind of crimped regulations, but a prohibition on all advertising; and it would have some strong antismuggling provisions, both domestic and international.

We have heard Senators state the facts. Forty million Americans smoke today. Most of them are addicted. I don't think we have heard the California facts. Earlier, I was listening to the distinguished Senator from Nebraska say he was speaking on behalf of 1.6 million Nebraskans. My goodness, in California alone, three times the population of the State of Nebraska smokes. We have 4.6 million smokers in California who are adults; that is, 19 percent of the population of the State of California smokes. You can figure how many of those people you believe are truly addicted, who would like to quit but can't.

Ten percent of our youngsters smoke; that is, 890,000 young people in California smoke. Let me give you a really chilling figure. One out of every four high school senior is addicted to nicotine. One out of every four high school senior in the largest State in the Union is addicted to nicotine. That is why I say an express prohibition on all advertising is important to the success of any antismoking effort.

Mr. President, 1.8 billion packs of cigarettes are sold in California each year. On a per capita basis, 54 packs of cigarettes are consumed in California each year by every man, woman, and child in the State. And there are more than 32 million of us in that State. We already have a 37-cent State tax. We have a 24-cent Federal tax. And on the ballot in November is an initiative placed there by Rob Reiner, which would put on 50 cents additional. So we will be over a dollar in tobacco taxes in the State of California before this body and the other body do anything at all.

In California, 300 young people under the age of 18 begin smoking daily. We all know the health consequences. Just yesterday, my closest and oldest friend called. She had just been diagnosed with lung cancer. She quit smoking 30 years ago. Just the day before, I learned of the husband of a very close friend of mine who just had a tumor, stage 4, the size of a softball diagnosed in his lungs. So we all see this happening to us every day. A good friend of mine just died from lung cancer —a lifetime smoker.

The hard part is not that we don't want to do something, but whether what we do is right. What really will turn around the teenage trap of smoking and addiction? What is the right balance of penalties, pressures, regulations, and health research for the next 25 years? If the goal of this legislation is to reduce and limit youth smoking, and not just creating a spending bill, we must address the link between price of cigarette packs, the ratcheting down of nicotine, if the FDA has full regulatory authority, a black market, and the availability of cigarettes to children. We need to make certain that we don't increase the price of cigarettes so high that it becomes lucrative for smugglers and for organized crime to become involved in cigarette smuggling so that, like cocaine, cheap black-market cigarettes will be available on street corners in cities all over our country.

Mr. President, there is already a black market in California. It is a substantial black market, and it is based on just the taxes I have mentioned so far—a 37-cent State tax and a 24-cent Federal tax. The State estimates they lose between $20 million and $50 million a year in revenues.

We have all heard in the Judiciary Committee commentary that when the per-pack price increases beyond $3.60 to $4 a pack—this takes into consideration what the public health people said could be added to a pack—about $2—and what the industry analysts said, anything over $3 to $3.50—at that point we would create a black market in this country, unmatched by what happened in Canada in the 1980s.

I believe that, as I understand the MCCAIN bill, within 5 years in the State of California, with the item on the ballot, you will have a black market in cigarettes unmatched by anything in history. According to an independent industry analyst, the price per pack in 1997 dollar terms, under the Commerce bill, would be $4.61. In California, with what is on the ballot in June, that will make it $5 a pack. If you include inflation, the MCCAIN legislation would be $4.61, and that becomes $5.11 if you add the 50 cents that is on the ballot in my State in November. That is above anything that anyone has said would be the trigger point to create a black market in the State. This is a 25-year prospect, so the numbers only go up from there.

At the Judiciary Committee hearing 2 weeks ago, John Hugh, the senior assistant attorney general of the State of Washington stated:

> As tax rates have risen generally across the United States, a new trend is emerging. Increasingly, tobacco products manufactured outside the United States are being smuggled into the United States and are sold on the contraband market. In 1988, California increased its tobacco tax from 18 percent to 35 percent per pack. Today, the contraband market is estimated to be between 17 and 23 percent of the cigarettes sold.

The impact of cigarette smuggling is enormous for this country and most particularly for my State. First, there is, obviously, the loss of State excise tax revenues, which I said were $20 million to $50 million annually now.

Second, we have no control over the safety of cigarettes that are smuggled in from overseas. For example, tobacco from China is much harsher, and the cigarettes are much more carcinogenic. And that is a very likely contraband potential black market today. Even though all 50 States have laws prohibiting the sale of tobacco to people under 18, Federal sting operations show that four in ten teen smokers nationwide today succeed in evading such laws.

Individuals, including teens, find ways to buy available cheaper cigarettes. In Canada, when they increased tobacco prices by 150 percent in the 1980s, it is estimated that 40 percent of the cigarettes in Canada may have been contraband U.S. cigarettes, where a carton of Canadian cigarettes was $37 compared to $14 for U.S. cigarettes.

We also heard testimony about how a smugglers' ally developed in an area between Cornwall, ON, and Messina, NY, the epicenter of the Canadian contraband cigarette crisis.

It goes on and on and on with testimony.

There is a very real probability that within 5 years in California there will be a major black market, if the McCain's per pack tax plus what happens on the ballot in California in June all go into law.

With almost 890,000 youngsters smoking, with one out of every four high

school seniors addicted to nicotine, what prospects do we have, then, of really reducing teenage smoking unless we can get full regulatory FDA authority, and unless we can prohibit all advertising, which I don't believe we will be able to constitutionally do unless the tobacco companies will agree to ban all advertising. To me, a ban of all advertising is really going to be important if we want to help youngsters to not smoke.

Let me tell you two things about the McCain bill that I cannot live with.

I will shortly be introducing an amendment, along with Senators BOXER and DURBIN, to cure an injustice in the McCain bill's treatment of local government. As presently drafted, the bill would wipe out the suits that several local governments have filed against the tobacco industry without providing a dime of compensation. That is simply unfair. The McCain bill currently would prevent local governments from sharing in any of the settlement funds now being provided for in the United States. San Francisco was the first local government to sue. It sued in June of 1996. The suit was joined in by 17 other California cities and counties representing over half of the population of the State of California. Local governments in three other States have also sued the tobacco industry. New York City; Erie County, NY; Cook County, IL; the City of Birmingham, AL; and Los Angeles County brought their own suits. These local governments have been litigating against the tobacco industry for 2 years. As a matter of fact, it was the California cities and counties which resolved the Joe Camel case in California. And as a result of that case R.J. Reynolds agreed to pull the infamous Joe Camel campaign. R.J. Reynolds was required to disclose its confidential marketing documents. The release of those documents was front-page news across the country.

The California county lawsuit is set for trial early next year. In the absence of Federal legislation, the California counties and other local governments would expect to recover appropriate compensation as a result of the trial or the settlement of these cases. The legislation coming out of the Commerce Committee jettisoned all of these suits.

That is my first major point of a grievance with the McCain legislation, in addition to it moving so fast and the cost such that I believe it creates a major black market.

The second objection is that the formula for distribution in the State disadvantages 26 States because it is based on an agreement among the Attorney Generals and not on general population census figures. For example, in California, if you use the population percentage as a formula mix, what happens is California's share of revenues is increased 4 percent. And that is 9 percent to 12 percent, and that is a third net additional cost for 26 other States to which we have sent a Dear Colleague letter out today letting them know about this.

It is no secret that I have been working with the distinguished chairman of the Senate Judiciary Committee, the distinguished Senator from Utah, on a bill that might well avoid some of these problems—avoid the black market for California, cover local suits and county suits, provide a formula which is really based on what we are trying to do, which is to stop youth smoking, and it makes sense in many other ways.

Particularly, let me stress again that unless whatever we do here has some encouragement for the tobacco industry to agree not to advertise, the only prohibition we can probably impose, or perhaps—I say perhaps—some of those in the FDA rules, and even that will be litigated and even that will hold up the legislation probably for 5 to 10 years.

I notice the distinguished Senator from Utah is on the floor. I wonder if I might ask him this question. I have had the privilege of serving with him on the Judiciary Committee for 5½ years now. I regard him as a strong and positive constitutional expert.

Based on what the Senator from Utah knows of the Commerce Committee bill, does the Senator believe it will be contested in court, and does he believe that it will withstand a constitutional test?

Mr. HATCH. I thank the distinguished Senator for her kind remarks. I have listened very carefully to her.

There is no question in my mind—not only from my own personal evaluation and study of these issues, but also from conferring with the top constitutional experts in the country, that both the original Commerce bill and the managers' amendment we are now discussing, are unconstitutional in scope and intent. This is especially true with regard to the FDA provisions where it would appear that the advertising restrictions are too broadly conceived to be enforced. Both Larry Tribe, a constitutional expert on the left, and Robert Bork a renowned scholar on the right, have concluded these provisions are problematic and raise constitutional concerns.

With regard to any other advertising ban, as embodied in the new title XIV of this managers' amendment, the only way they can go into effect will be if the tobacco companies actually voluntarily consent to these restrictions on advertising. As the distinguished Senator knows, they have not voluntarily consented. Far from it.

The companies have said they will fight this bill. This means that if the McCain bill passes in its current form, and thus there is no voluntary consent to the advertising provisions, we will have up to at least 10 years of litigation. During that time, we face the possibility of having no money for our stated purpose of helping reduce youth smoking, no money for smoking cessation, nor for any of the other stated purposes such as biomedical research, settling the state suits, and farmer transition payments.

And at the end of 10 years, it will be entirely likely that the tobacco companies will have won their suits because of the constitutional infirmities within this bill.

I am just talking about advertising.

Then we go to the look-back provisions. There are at least two major constitutional problems with the look-back provisions as written in this bill.

One is that they are going to punish these companies even though they don't show fault on the part of the companies when the projected youth smoking reduction targets are not attained.

The constitutional experts have said that may constitute a bill of attainder which is expressly prohibited by the Constitution.

There are other constitutional infirmities with regard to the look-back provisions. So it doesn't take anybody on the side of tobacco companies 3 minutes to know that if they face the Commerce bill, in which they had no part in drafting, during which they were not even allowed to provide input, for which they gave no consent to waive their constitutional rights, then it is a lot cheaper for them to litigate the matter with a good prospect of winning than to pay over $800 billion in the next 25 years.

I might add just parenthetically that by some estimates there could be 1 million young children whose lives will be cut short prematurely because Congress has failed to write a constitutionally sound bill.

So the Senator raises very important issues; she raises very important considerations here and very important criticisms of this particular piece of legislation.

It really bothers me that many in this body are rushing to ''pile on'' this legislation without trying to bring the tobacco companies onboard, albeit screaming and kicking.

Let me state for the record. I have no respect whatsoever for the tobacco companies.

I think that their record shows clearly they have lied to the American people for decades. They knew their products were addictive. They knew they caused cancer. They deliberately marketed their products to young children, and then denied it.

I would like nothing more than for them to pay a trillion dollars a year.

But what I would like even more is for us to endorse a workable, constitutionally-sound new War on Tobacco, and we are not going to do it by writing a bill which fails the constitutional test. Such an approach is destined for failure.

I remember clearly when Mississippi Attorney General Mike Moore testified before our committee, not once, but twice. He related that the attorneys general knew all these evil things about the tobacco companies when they were negotiating the settlement

last year, they waded through all the relevant documents, and they concluded that the far greater goal was to help a generation of youth from becoming addicted to tobacco than to continue to focus on the companies misdeeds.

If the companies broke the law, if anyone in the companies broke any law, they should be punished to the fullest extent possible. Nothing here would preclude that. Nor should it.

But I get upset when some suggest that we can help children by thinking up literally every measure we can to punish the tobacco companies and then loading them into one constitutionally-infirm bill.

It seems to me it is possible to punish the companies, but at the same time compel them to underwrite financially a new public health program that can do future generations more good than anything we have ever envisioned. We simply can't develop that comprehensive public health approach without the industry's consent, again, however reluctant.

I can go on and on. Tomorrow, I plan to go into greater detail on the constitutional infirmities of both the original Commerce Committee bill, which everybody knew was just a vehicle for amendment, and the bill as now amended with the managers' amendment, which is just as bad as the original Commerce bill with regard to constitutional concerns.

So I thank the distinguished Senator from California for bringing this out. I also appreciate her working with me to try to resolve these difficulties. And, as my dear friend from California knows, the original settlement on June 20 of last year was for $368.5 billion.

All of us gasped for breath when we heard that. We thought, ''Why in the world would the tobacco companies agree to pay $368.5 billion?''

The reason is because they want some limits of liability, even though they will still have abundant liability; they want some finality to the litigation that they face, a predictability that will allow them to make the large payments we envision to underwrite the new public health program we are trying to develop.

And so, if we take away even the few aspects of limited liability that are there, there is no chance at all of ever getting the tobacco companies to come on even a modest bill.

I thank the distinguished Senator from California for being willing to help cosponsor the bill that we are working on that would require $428.5 billion in payments over 25 years, or $60 billion more than the June 20, 1997 settlement.

I believe that if we can limit it to somewhere between $400 billion and $430 billion, and if we can include reasonable limited liability provisions for the companies—limited liability provisions that restrict class actions but do not stop individuals from suing—than I am hopeful we can get the companies to come back on board.

I am not sure if this is possible, but I think we ought to try, or the whole program will be lost. And if we get them back on, then this whole matter can work and work to the best interests of children and society as a whole.

So I thank my colleague for being willing to work together on this and, of course, for bringing up the points she is raising here today. I hope that at least cursorily answers her questions, and I will be glad to go into much greater detail later.

Mrs. FEINSTEIN. I thank the Senator for that excellent answer and the discussion of the constitutional infirmities and what is apt to happen in the litigation which would really hold up a remedy for smokers, probably for 10 years.

I would like to ask another question. Is it not correct, I ask the Senator, that you also are a member of the Finance Committee in addition to being chairman of the Judiciary Committee?

Mr. HATCH. In response to my colleague from California, it is correct. I am a member of the Finance Committee and, of course, on that committee voted against the $1.50 increase at the manufacturers level, not because I would not like to punish the tobacco companies, but because that amount is excessive and in the process will not lead to a bill which can stop youth tobacco use.

Mrs. FEINSTEIN. I have been troubled by the absence of sound analytical data. I just sent my staff to the Joint Tax Committee, and as of May 18, there is a small report which shows the distributional effects of S. 1415 as reported by the Senate committee, but that is just the distribution of how the taxes would fall on the income groups.

To the Senator's knowledge, is there any sound analysis by a governmental entity such as CRS, CBO, or Joint Tax on the actual per-pack costs of this bill out 25 years?

Mr. HATCH. As the Senator knows, we held extensive hearings on this issue in the Judiciary Committee. The Treasury Department sent up Deputy Secretary Larry Summers, who gave us a five-line piece of paper as the basis for their analysis. When we asked him about whether they had a model, he wasn't able to respond very carefully.

There is apparently not much of a model backing up the Treasury Department's assertions in this area. But, on the other hand, we had three of the top analysts from Wall Street who spend all of their time working on tobacco-related issues trying to be able to be accurate in informing their customers, and they had extensive economic modeling done that showed the retail cost per pack of tobacco under the $1.10 bill that we have before us would be somewhere between, as I recall, $4.50 and $5.50 per pack. And if that is so, then the distinguished Senator's concerns about the black market are certainly legitimate and justified.

I might add that the Finance Committee last week did not view it as a precedent for the future. But I cannot believe that it is good for the Finance Committee, good for the full Senate, and good for the American people to consider what one Wall Street analyst has projected to be an $861 billion program without the Finance Committee having a meaningful opportunity to study the Treasury Department's estimates of the costs of the program.

As chairman of the Judiciary Committee, I tried to get a full explanation of the Treasury model before a hearing that we held on April 30.

But, the administration failed to provide us with their model together with a full explanation of their assumptions. And what I can only conclude from that is they did not have a model; perhaps they were just hypothesizing. I hope this is not so.

Late the night before the hearing, I succeeded in getting only a one-page summary table that some Treasury and White House staff insisted on calling a model.

Let me just say that I hope we could all agree we should not launch a huge new, multi-billion Federal program, with such far-ranging implications, on the strength of a one-page chart.

It is also important for me to note that many Wall Street analysts have been calling for a full explanation of the Treasury projections for a few months. Several Wall Street experts have participated in meetings with administration officials and Commerce Committee staff and explained their own models and their own assumptions so this should have been a very open process.

In fairness to the Treasury Department, I must say that finally, late on May 12, but only after our hearing that same day where two financial analysts testified—and this was 2 weeks after our hearing in which Deputy Secretary Summers testified—Treasury did provide our Committee with an additional 11 pages of information.

For the record, I must note that this still is not everything I have asked them for. For example, Treasury s one-page summary table that they insist on calling a model assumes a 23 percent reduction in cigarette sales from 1998 to 2003, based upon a semilogarithmic demand function with an initial elasticity of minus 0.45.

I might not know the difference between a semilogarithmic function and a hole in the ground, but there are experts who know how to assess this information. These experts deserve a chance to analyze this data on something this important. And the fact is, on the evening of April 28, Treasury and the White House staff said they would send over the formula for this function, that they would send it right over.

At this meeting, it was explained to my staff that this function gradually reduced the price elasticity as the price climbed. Frankly, this makes sense, because you would expect that as price goes up, there would be fewer

and fewer people left who are willing to pay the higher and higher prices.

But the administration officials also said that in year 5, for some statistical reason, the Treasury elasticity function would actually increase, under the Commerce bill assumptions.

So, while they are saying that as a general matter the elasticity would get slightly lower as price climbed, they were also saying that in year 5, at least, this elasticity would actually grow higher.

You can see why anyone would want to study the underlying assumptions for these conclusions very carefully, since elasticity of demand—that is, the responsiveness of individual consumption due to an increase in price—is so important to the writing of this law.

Our debate on the floor over the Kennedy amendment calling for a price increase of $1.50 per pack centered on this price elasticity issue. But the formula that was going to come right over from the Treasury never came on April 28, as they said it would.

At the April 30 hearing, I renewed this request by asking Deputy Secretary Summers to provide this information with the details of the so-called Treasury model. And, as I said earlier, the Treasury Department did finally send us additional information after our hearing on May 12, but we are still waiting for their semilogarithmic demand function.

I have no reason to believe there is anything magical about this information and cannot imagine why it has not been provided. Certainly, it is not like I am asking for some sensitive top-secret security information.

We are asking for information to help us understand how to write properly a bill that is being touted as having a $516 billion revenue impact, but in reality which is probably $861 billion, according to those who have developed full, detailed models with assumptions which they are willing to make public in at least two open hearings.

So, I have to say the testimony we heard from these financial analysts just completely blows away the Treasury Department testimony that was given, and certainly the 1-page so-called model that they presented to the Committee, and even the 11 additional pages that they gave us which really weren't very helpful.

And I have to say I take exception about remarks made hear earlier today suggesting that these financial analysts had a vested interest in killing the McCain legislation because it would help their investors. We did, in fact, discuss this issue with the analysts at our recent hearing. They advised the Committee, and I believe they had no reason to mislead us, that their only vested interest was in providing accurate information to their clients. They have both recommended buying and selling tobacco stocks, depending on the company and the time.

The companies they represent do not own tobacco stocks, as was alleged here earlier, at least not in the traditional sense. It is clear that they may hold tobacco stocks for their clients who have purchased them, just as they hold stocks in a myriad of publicly-traded companies, but it is hard to argue that this is ownership of those stocks.

That was a little lengthy, but I don't know how else to explain it.

Mrs. FEINSTEIN. I thank the Senator. I think that was an excellent explanation, if we all understood it. I don't know a lot about logarithms. I do know about per-pack cost. And I do know we have 5 million smokers, and almost a million juvenile smokers, in the State of California. And I do know that by all the testimony we had in the Judiciary Committee, Senator HATCH, that if the price in 5 years is over $5 a pack, we have a whopping black market on our hands.

Would you agree with that?

Mr. HATCH. There is no question in my mind about it. If we pass this legislation the way it is currently written, we are going to have a black market like you have never seen before.

When Canada raised its taxes so dramatically, they found this to be the case. Remember the mayor of Cornwall, Canada——

Mrs. FEINSTEIN. Yes.

Mr. HATCH. Who came in and testified about how they threatened him, his life, his family's life, how the city become inundated in organized crime, until they finally had to reduce the size of the excise tax in order to prevent further black marketeering?

Remember how he told us his family had to be removed to a safe house? How ordinary citizens could not even go out at night because they were afraid of random gunfire?

The distinguished Senator from Massachusetts also showed a chart here today——

Mr. MCCAIN. Mr. President, regular order here.

Mr. HATCH. That only went up to 1991.

Mrs. FEINSTEIN. Mr. President, I believe I asked——

The PRESIDING OFFICER. Regular order is the Senator from California has the floor. She has yielded for a question to Senator HATCH.

Mr. HATCH. I am trying to answer that question.

Mrs. FEINSTEIN. Yes, I am asking the chairman——

MR. MCCAIN. Further parliamentary inquiry. Will the Parliamentarian describe the procedures here in the Senate called for as a result of a question, and that the Senate is not supposed to be abused by long, lengthy discussion of a question. This is clearly what is going on. It is not in keeping with the spirit of the Senate. There is another speaker waiting to speak, and that is why I am concerned about it. Otherwise, I would not care.

I ask a parliamentary inquiry, to describe the procedures of the Senate in this case.

The PRESIDING OFFICER. The Senator who has the floor may yield for a question. And the precedent prohibits statements in the guise of a question.

Mr. MCCAIN. Would the Chair repeat that, please?

The PRESIDING OFFICER. Under the precedents, statements in the guise of a question are not permitted.

Mr. MCCAIN. Statements in the guise of a question are not permitted. I thank the President. I made my point. If the Senators want to continue to abuse it, that is fine.

Mrs. FEINSTEIN. And I would make my point to the Senator in return. I have asked no question in the guise of a statement. I believe, if you read the RECORD, the RECORD will reflect that. I have asked a question.

Mr. MCCAIN. It is very clear what is going on.

Mr. HATCH. Mr. President, could I ask the distinguished Senator from California a question? Do I have the right to do that, under the parliamentary rules here today? If she will——

The PRESIDING OFFICER. The Senator from California has the floor—

Mr. HATCH. May I ask her a question?

The PRESIDING OFFICER. And the Senator from Utah may ask her a question if she permits it.

Mr. HATCH. I think that is what I will do, because it seems to me that some of the people around here are afraid to get the facts on this matter.

And I have to say that it is highly offensive to have someone come here and suggest that the distinguished Senator from California and I are not trying to get to the bottom of the facts, especially since the facts are so complex here.

So I will ask the distinguished Senator from California, isn't it true that you are trying to get to the facts of this matter? Is that right?

Mrs. FEINSTEIN. Yes. It is true.

Mr. HATCH. May I also ask the Senator from California, are you aware of the fact that we have had extensive testimony on this very issue before our Judiciary Committee? I hope this question is fair. I hope that I will be permitted to ask it, under the Senate rules. I surely hope that the manager of the bill will recognize we are going to abide by the rules, if he wants to be a stickler on them. Is it not true that we have had literally hours of testimony on this very issue?

Mrs. FEINSTEIN. Yes, it is true. And I believe I was present at most of the hearings on this subject in the Judiciary Committee.

Mr. HATCH. And I would like to ask, isn't it true that the distinguished Senator from California heard the testimony of witnesses saying that if the per-pack price under the Commerce bill goes to $4.50 to $5.50 per pack, there is going to be an extensive black market? Isn't that true?

Mrs. FEINSTEIN. That is true. The independent Wall Street analysts said they believed it would happen at $3 to

$3.50 a pack. Mr. Myers, representing Tobacco-Free-Kids, testified before our committee that he believed you could take an additional $2 on a pack before it would develop a black market. But the figures for California really, if the tax passes in June, indicate that the tax in this bill, plus that tax, would be substantially above $5 within 5 years.

Mr. HATCH. Is the Senator aware of this comment by CBO in April 1998—and I hope this is in the form of a question that is acceptable to the manager of the bill—about black-market cigarettes:

Any legislation that would rapidly raise the price of a product by a third or more would almost certainly spawn a black market as people attempted to evade the high prices. Tobacco is no exception.

Is the Senator aware of that?

Mrs. FEINSTEIN. That is correct.

Mr. HATCH. Is the Senator concerned about that?

Mrs. FEINSTEIN. I am very concerned about it, because, again, we have 40 million smokers in the United States, 5 million of them in California. There is a huge market. There is a huge number of people already addicted, and as the price per pack, plus reduction of smokers, comes into play, the opportunity for a black market increases, and particularly if you begin to ratchet down the addicting chemical which is nicotine.

It is a serious question. I am surprised, frankly, that people really don't want to know more about it. I, frankly, am surprised that there is a rush to judgment. It seems to me that because of what we are doing is for 25 years, we better be right. I don't want to see in my State a huge black market in 5 years and know that I voted to help make that market possible.

Mr. HATCH. Can I ask the Senator from California another question that I think is relevant to her concerns?

Mrs. FEINSTEIN. Absolutely.

Mr. HATCH. The Senator comes from California, the largest populated State in our Nation. How many people live in California?

Mrs. FEINSTEIN. Oh, probably around 33 million today.

Mr. HATCH. Almost 34 million people, I understand.

Mrs. FEINSTEIN. Nineteen percent of whom smoke.

Mr. HATCH. Nineteen percent of whom smoke. Is the Senator aware that one out of five packs of cigarettes sold in California happens to be contraband?

Mrs. FEINSTEIN. I believe that is correct. Law enforcement has said there is now a substantial black market in California. With the franchise tax, port authorities advise that the State loses about $20 million to $50 million a year in revenue now from that market.

Mr. HATCH. And that jumped up when the State raised its tax by a few pennies from, I think, was it 17 cents to 34 cents or something like that.

Mrs. FEINSTEIN. That is correct. There was a proposition on the ballot that did do that. That generated the market. They have made some major arrests with large numbers of confiscated goods to go on the black market.

Mr. HATCH. What do you think is going to happen in California and other States if that price is raised per pack from $2 to $4.50 or $5.50?

Mrs. FEINSTEIN. I think if it goes from $2 to $4.50 in California, with the number of people addicted and the fact that most are low income, that it creates a black market. One of the concerns I have is that it becomes a real pawn for organized criminal elements that also brings on other serious repercussions. But I don't want the Senator from Utah, or anybody else, to mistake me. I want to see us have a bill. I want to see us have a bill that is going to be able to do the job, rather than have adverse, unintended consequences.

Mr. HATCH. I have to agree with the Senator. And I have to say, is the Senator aware that on May 4, 1998, testimony before the Senate Democratic Task Force on Tobacco, Robert A. Robinson, Director of Food and Drug, Agriculture Issues, Resources, Community and Economic Division of the General Accounting Office—who should surely win an award for one of the longest titles in Government—said:

Smuggling cigarettes from low- to high-tax States or interstate smuggling prominent in the 1970s may be a reemerging problem. Such activity is likely to occur when the differences in cigarette taxes across the States are significant enough to make it profitable. Recently, many States have opted to sharply increase their cigarette taxes, yet most low-tax States have not. As a result, recent studies suggest that the level of interstate smuggling activity may now be increasing. In fact, recent estimates suggest that smuggling is responsible for States collectively losing hundreds of millions of dollars in annual tax revenues.

Is the Senator aware of that?

Mrs. FEINSTEIN. Yes, I am aware of it. I am also glad that the Senator from Utah is mentioning this, because one of the most discouraging things here has been the rush to judgment, has been the feeling of many people, very well-meaning, very much wanting to see legislation in place, that if you pause to consider these impacts, somehow you are un-American, somehow you are pro-tobacco. And yet, as we know, the devil is in the details with all of these things. It really is the long-term effect of a bill that we need to consider carefully.

That is one of the reasons I have been, frankly, opposed to the speed with which this bill is being pushed, and I think it is being pushed so that we don't have this information in front of us, so that we don't understand the repercussions, so that a bill gets passed and everybody can pound their chests and say what a wonderful job we have done and then, boom, in 4 years, there can be a cataclysmic event like a big black-market operation.

Mr. HATCH. Let me just ask one other question of the distinguished Senator, because there has been some indication here that there is some sort of a game being played in this colloquy between the Senator and myself. It is anything but a game being played.

We have seriously looked at these matters in 10 Judiciary Committee hearings, at which the Senator from California was in attendance. And these are important issues.

I just ask the distinguished Senator, what are we going to do if we go through all of this piling on mentality, as is embodied in this managers' agreement and many of the proposed amendments thereto, and, after we get to the end of this, the bill is still constitutionally unsound? What happens if we have 10 years of litigation and the program falls apart? Isn't that some justification for finding out the facts now in order to either amend this bill or have a substitute amendment or other correctional measure? Shouldn't we really get to the heart of how to develop a constitutionally-sound bill that will help reduce teen smoking and solve some of these other problems in society? Does the Senator agree with me?

Mrs. FEINSTEIN. That is absolutely correct, I say to the Senator. Not only are we not playing a game, certainly no one in this body has asked me, representing the State, what would be the impact of a bill on the largest State in the Union with the most smokers by far in California, with the most young people.

I came to this body to use my brain, to try to work for my State and try to see that whatever it is that I vote for doesn't have unintended consequences.

I think all the purpose of this colloquy is to say that there may very well be serious, unintended consequences, heightened by the fact that we are moving so fast without any major governmental analysis of the long-term, per-pack costs and what those costs might do when you measure elasticity, diminished market demand and a diminution of nicotine in a regulatory order by the FDA.

These are very serious things. I think they deserve consideration, and I thank you very much.

Mr. HATCH. May I ask the distinguished Senator one more question? It is this: I have sought to facilitate a thorough examination of public discussion of the Treasury model so policymakers can better understand why there is so much disparity between Wall Street and 1600 Pennsylvania Avenue on critical items like the estimates of the retail price per pack of cigarettes under the Commerce Committee bill.

Is the Senator aware that we have heard the official estimate is that the Commerce Committee bill will increase the cost of a pack of cigarettes by $1.10 per pack over 5 years? Many in the press simply report that the price, not cost, will go up by just $1.10 a pack.

As I understand it, and I ask the Senator to help me to know if she understands it the same way I do, the Treasury Department and the proponents of the Commerce Committee bill believe that when you take into account all other factors, you arrive at a real price in year 5 of $3.19 per pack. Although it is not a number that many of the bill's proponents seem anxious to get into public discussion, and the press is not widely reporting it in nominal terms, this is how much money you actually have to pull out of your wallet. This $3.19 per pack figure translates at the cash register price of $3.57 in the year 2003 under the White House and Treasury Department's estimates.

Now, again, I ask the Senator, is the Senator aware of those facts?

Mrs. FEINSTEIN. Actually, Senator, those are not the facts—they may be the facts coming out of the White House.

Mr. HATCH. That is right.

Mrs. FEINSTEIN. But the facts in committee.

Mr. HATCH. That is the White House's spin here.

Mrs. FEINSTEIN. Yes.

Mr. HATCH. Let me ask the Senator this. Does the Senator recall that in September the President called for, and the White House repeated again in February, bipartisan legislation that raises the price of cigarettes by up to —and that is up to —$1.50 per pack over 10 years? Does the Senator remember the President calling for that?

Mrs. FEINSTEIN. I do.

Mr. HATCH. Given that the price of cigarettes is about $1.95 per pack today, it looks like the Commerce Committee bill or this managers' amendment will achieve the $1.50 price hike 5 years ahead of schedule by the Treasury's own estimates. Is the Senator aware of that?

Mrs. FEINSTEIN. That is correct; yes.

Mr. HATCH. All right. Now, Wall Street analysts tell us the Treasury numbers are off—way off, they say. They say that the actual price increases under the Commerce Committee bill will be much higher than what Treasury is telling us. They say the price in real dollars will climb to between $4.50 and $5 per pack in 5 years; and at least one indicated higher than $5 per pack, up to over $5.50. Is the Senator aware of that?

Mrs. FEINSTEIN. I am.

Mr. HATCH. Martin Feldman of Salomon Smith Barney projects in the year 2003, the Commerce Committee bill, the old bill—but the revised one is the same on the facts—will result in a real price of $4.61 per pack. In nominal terms, this means that cigarettes will cost $5.11 per pack. That is over $50 per carton. Does the Senator remember that testimony?

Mrs. FEINSTEIN. I believe you are accurately reflecting the testimony.

Mr. HATCH. David Adelman of Morgan Stanley Dean Witter testified on April 30 that the 2003 average retail price will reach at least $4.53 per pack if the Commerce Committee bill is adopted. His analysis also indicates that the price under this bill that is on the floor right now could actually grow to $5.66 per pack or higher within 5 years. Is the Senator aware over that?

Mrs. FEINSTEIN. Yes.

Mr. HATCH. Now, similarly, Gary Black of Sanford C. Bernstein & Company, told the Judiciary Committee on May 12, 1998, that under the Commerce Committee bill the real price of cigarettes will exceed $5 per pack in 2003. Is the Senator aware of that?

Mrs. FEINSTEIN. Absolutely. And the point that you are making is really reflective of the point that I am trying to make in a less erudite way. That point is, let us take the time to have a CRS analysis, a CBO analysis, a joint tax force on some of the figures that we are putting forward, because these are figures that have been presented to us in a formal way.

Mr. HATCH. I would ask the Senator if she is aware—let me emphasize the $4.50 to $5-per-pack prices that these leading Wall Street analysts projected in testimony to the Judiciary Committee, those prices are much higher than what the Treasury estimated and far higher than the widely cited and widely reported $1.10-per-pack figure. Isn't that correct?

Mrs. FEINSTEIN. That is correct—one of the reasons I do not know who to believe.

Mr. HATCH. So it is far higher than the up to $1.50-per-pack increase that the President called for over a 10-year period; is that correct?

Mrs. FEINSTEIN. That is correct.

Mr. HATCH. If these Wall Street analysts are correct, and the Treasury estimates are off in year 5, under the Commerce Committee bill, we may reach a price increase that is twice as high as what the President has called for; that is, a $3-per-pack price increase rather than a $1.50 price increase. That is certainly a far cry from the $1.10 we hear so much about; isn't that so?

Mrs. FEINSTEIN. That is correct.

Mr. HATCH. Let me just finish this.

What is more, according to these experts, we will reach this twice as high level twice as fast as called for by the President. I guess we should ask whether the American public understands that what we may actually be talking about under the Commerce Committee bill is a $50-per-carton price for cigarettes.

Now, if you are like me, and do not, and will not, ever smoke, this may not seem so bad, literally; but I just hope that the public health lobby does not next focus its attention on the problem of obesity, or we may have chocolate ice cream at $20 a gallon, a $10 package of potato chips, or a $5 slice of apple pie, sold by prescription no doubt, if we continue to follow this type of bureaucratic reasoning. Is the Senator in disagreement with me on this? And I didn't even talk about cheeseburgers!

Mrs. FEINSTEIN. My point is, Senator, I do not really know whom to believe. And that is why I am where I am with respect to this bill. Different committees have had different testimony. I do not know whether the Finance and the Commerce Committees actually had this testimony. We had it in the Judiciary Committee.

Mr. HATCH. The Finance Committee did not hear any testimony on the tobacco issue; the Commerce Committee heard from Secretary Summers as well as Mr. Feldman.

Is the Senator aware that the $1.10 price that is so widely reported in the media as the add-on to the current $1.95 or the $2-per-pack price at the manufacturer's level does not include a whole wide variety of factors, like the wholesale markups, the retail costs, the additional excise taxes added on by the States, litigations costs, the lookback, all factors that could be add-ons to the retail price under this bill?

So it is pretty clear that it is a lot higher than what the media are reporting is $1.10. It is a lot higher, isn't it, than what the White House has indicated?

And I would just ask the Senator this other question: Isn't it plausible to believe these Wall Street analysts, whose very livelihoods depend on trying to arrive at correct economic projections in order to advise clients about whether or not to invest money, who have used extensive models to make those projections rather than just a 5-line sheet of paper?

Mrs. FEINSTEIN. I think that is right. I think what has happened is that we have seen a net figure applied as a gross figure when in fact it is just a beginning figure. It becomes an arbitrary cost added, and then there are all these other costs that come on top that are not factored in.

I think that is why we need a very thorough, objective report on what actual street prices of cigarettes will be, what you get them for in your 7–11, what you buy them for in your supermarket, what it will be with inflated dollars in 5 years.

If we know that with specificity, then I think we can make some informed judgments as to whether, in each of our respective States, this is apt to create a black market or not apt to create a black market. We then can relate this data to the distribution table that Joint Tax has done so you know what portion of this falls on the lowest-income people versus the highest-income people.

Mr. HATCH. Is it not true—this will be my last question—is it not true that under the substitute that the distinguished Senator from California and I are working on, that we do not base this on a price per pack of cigarettes, our $428.5 billion, we base it on payments that have to be made over 25 years?

Mrs. FEINSTEIN. That is correct.

Mr. HATCH. Whether the companies—whether they sell a lot of cigarettes or not, they are going to have to make those payments; isn't that correct?

Mrs. FEINSTEIN. That is correct. You see, the thing that bothers me is, in this rush to judgment, everything is evaluated based on the per-pack numbers that are thrown around, based on what is a net addition that will not be the real street addition. So there is no way, with the speed this bill is moving, to know exactly what we are going to be doing down the line. The beauty of our bill, if people should be interested, is that we have tried to avoid that problem.

Mr. HATCH. Mr. President, I thank the distinguished Senator from California for answering my questions.

Parliamentary inquiry. Have these questions been in order under the rules of the Senate?

The PRESIDING OFFICER. The Senator from California has the floor.

Mr. HATCH. I am asking the Parliamentarian if these questions have been in order under the rules?

The PRESIDING OFFICER. I believe they are, Senator.

Mr. HATCH. Well, my goodness, I am so happy to find that out.

Thank you so much, Senator.

Mrs. FEINSTEIN. I thank the Senator. It has been a pleasure for me to work with him.

Let me once again sum up, because I know the distinguished Senator from Maine is waiting, and I do want to thank the Senator from Utah for his leadership not only of the Judiciary Committee but in what we have been working on. I hope if people might be interested they would let us know.

In the meantime, I am really not prepared, based on the analytical data—and we have tried to get every single piece we could—to cast a vote which has repercussions for a quarter of a century and which would have repercussions on a State where 5 million people smoke and almost a million youngsters and one out of every four high school seniors is addicted to nicotine. Until I have some of these answers and we know what the impact on the streets in Los Angeles, in San Francisco, in Fresno, in San Diego, is going to be 5 years, 10 years, 15 years, 20 years, and 25 years hence—then we can cast an informed vote, and then we can go home and say we really have done something good for the people we represent.

I thank the Chair. I apologize and I thank the Senator from Maine for her forbearance.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, this week the Senate is debating far-reaching landmark legislation which gives us a historic opportunity to combat teen smoking and in the process save millions of lives.

Tobacco use is the No. 1 preventable cause of death in the United States, accounting for almost half a million deaths a year and billions of dollars in health care costs. More people die each year in the United States from smoking than from AIDS, suicide, alcohol and drug abuse, car accidents, and fires combined. Tobacco use in this country carries a price tag of almost $100 billion a year in direct health costs and in lost productivity.

Clearly, the single most effective thing we can do to improve our Nation's health is to stop smoking. However, smoking rates are actually increasing, particularly, and most tragically, among our young people. Tragically, tobacco addiction is increasingly a teen onset disease. Ninety percent of all smokers start before age 21. What is especially disturbing is that children, especially girls, are smoking at younger and younger ages. Smoking is at a 19-year high among high school seniors and has increased by over 35 percent among 8th graders over the past 7 years.

The statistics for my own State of Maine are particularly alarming. Maine has the dubious distinction of having the highest smoking rate among young adults in the country. Thirty-two percent of our 18- to 30-year-olds are regular smokers. Almost 40 percent of Maine's high school seniors smoke. If current trends continue, one in nine children will die prematurely of tobacco-related illnesses.

Tobacco is the leading preventable cause of death in Maine, responsible for almost 2,500 deaths a year. Direct medical costs of treating tobacco-related illnesses in Maine are about $200 million. Indirect costs—the costs associated with lost work time, higher insurance premiums and so forth—are also estimated to be about $200 million.

These numbers speak for themselves. The status quo is simply unacceptable. If we are to put an end to this tragic and preventable epidemic, we must accelerate our efforts not only to help more smokers quit but also to discourage young people from ever lighting up in the first place.

I found one fact in a recent Maine survey of smoking habits to be particularly disturbing. The smoking rate among young girls in my State has increased by 30 percent since 1993. I think that this advertisement gives us a good clue why. It is a blatant and shameless attempt by the tobacco industry to entice young girls, to entice teenagers to smoke. With more than 1,000 of the tobacco industries' best customers dying every day and another 3,000 to 5,000 quitting because of health concerns, smokers are literally a dying breed. As a consequence, the tobacco industry must hook thousands of new customers each day just to break even, and is now spending over $5 billion a year on advertising and promotional campaigns.

The tobacco industry actually claims that it does not target image-conscious young people with its advertisements featuring rugged Marlboro men and fresh-faced, model thin, ''You can do it'' young women. But, Mr. President, the evidence clearly proves otherwise. Just look again at this magazine ad. It is very typical, very typical of cigarette advertising. This ad is not aimed at people my age. It certainly is not aimed at people my parent's age. There can be no doubt it is not aimed at adults at all. It is aimed at teenagers.

Moreover, internal industry documents indicate that tobacco companies have long known that tobacco use leads to addiction, serious illness, and death. Yet, they nevertheless continue to pursue children, to target teens through ads and promotional campaigns, and have even gone so far as to consider marketing Coca-Cola-flavored cigarettes.

A landmark 1991 study published in the Journal of American Medical Association showed that cigarette-smoking ''Smooth Joe'' Camel was as recognizable to 6-year-olds as Mickey Mouse. Let me repeat that. Joe Camel was as recognizable to 6-year-olds as Mickey Mouse. The tobacco industry claimed the ads were, in fact, directed at adults. A second study found that 98 percent of the 12- to 19-year-olds recognized Joe Camel, compared to just 72 percent of adults. As a result, Camel's market share among underage consumers rose from less than 1 percent when the Joe Camel campaign first began, to 33 percent when he was finally put out to pasture.

More recent studies published in JAMA and elsewhere add further weight to the mounting evidence that advertising and marketing are the linchpins of the tobacco industry's efforts to hook children on nicotine. A February 1998 JAMA study found that the effect of tobacco advertising and promotional activities is ''strong and specific,'' with at least 34 percent of all experimentation with cigarettes by teenagers attributable to those activities.

Moreover, a 1995 article in the Journal of the National Cancer Institute found that tobacco marketing has a greater influence over a teen's decision to smoke than whether or not their parents smoke or their peers smoke.

Other studies have shown that the cigarette brands most popular with teenagers are the ones most likely to advertise in magazines with the highest youth readership. Moreover, unlike adults, the vast majority of young smokers prefer the most heavily advertised brands of cigarettes.

It is also far too easy for children and teens in the United States to purchase cigarettes. During hearings in the Labor Committee, we heard testimony that children living in 99 percent of our cities and towns have very little trouble walking into a store and buying a pack of cigarettes, despite the fact that it is against the law in all 50 States to sell tobacco products to minors.

Mr. President, during this debate, we have focused a great deal of attention on the $1.10-a-pack fee that the McCain bill imposes on cigarettes. Some have argued today that is simply too low and that an increase to $1.50 or more a pack is necessary if we are going to curb underage smoking. Others—and I

include myself in this group—are concerned that the evidence linking teen usage and price is not conclusive. Moreover, I am very concerned that a price increase of this magnitude is highly regressive and will fall mainly on adult smokers earning less than $30,000 a year. If we were to increase the cost by the $1.50 that was proposed, it would have meant that the average couple who smoke would be paying $712 more a year in taxes. That is a very hefty tax increase on low-income Americans.

Mr. President, at some point, raising the tax on cigarettes ceases to contribute to the reduction of smoking and becomes little more than an act of financial cruelty. Tobacco is highly addictive and there are people, perhaps many people, who will not be able to quit smoking even with an additional tax of $1.50 or more.

There is a point at which the tendency of the U.S. Senate to play God in the lives of the American people becomes dangerous. The notion that we can cure addictions by creating enough deprivation for those who are addicted is a very arrogant one. If we are wrong, we do nothing more than inflict suffering on those who do not deserve it.

While I respect the motives of its supporters, I could not, and did not, back an amendment that carries such a risk and that is not truly needed to fund the antismoking programs included in this bill. Those of us who legislate must draw lines, and recognizing that I am far from infallible, I believe that a tax of $1.50 per pack crosses that line. If our purpose is to inflict pain, it should be on those who profit from the addiction and not on those who suffer from it. That is why I shall vote to support the amendment offered by my friend and colleague from New Hampshire to eliminate the immunity protections afforded to the tobacco industry by this bill.

My view on the $1.50-a-pack tax proposal has been strongly reinforced by conversations I have had in recent weeks with young people in my State in an attempt to find out what the true experts—our teenagers—believe would be most effective in stopping teens from smoking in the first place. I have asked this question to, among others, a seventh grader from Portland, a Boy Scout troop in Dover-Foxcroft, high school students in Aroostook, and a teen smoker in Bangor. Significantly, none of these teens felt that a price increase would be the most effective means of discouraging teens from smoking.

As the addicted Bangor teen told me, ''I can't quit, so what I'll do is cut back on going to the movies or going to McDonald's in order to pay for cigarettes.''

Another teen told me that many students get their cigarettes by stealing them from their parents, so unless their parents stopped smoking, their access to cigarettes will be unaffected.

Alex Pringle, a seventh grader from Portland, suggested that having smokers who are suffering from lung cancer or other smoking-related diseases come to schools would be the most effective means of discouraging kids from smoking. It would effectively make the link between smoking and illness, a link that is too often unrecognizable to teens who believe themselves to be invulnerable.

Teens throughout the State told me that they smoked simply because it was ''cool'' or because it helped them feel more accepted by their friends. From their comments, I have no doubt that the tobacco industry's ads, such as the one I have displayed today, have sent a clear message to teens that teens who smoke are cool. I also have no doubt that when teens see movie idols such as Leonardo DeCaprio smoke, that message is, unfortunately, reinforced.

That is why the educational, counteradvertising, and research programs funded by this legislation, as well as the advertising restrictions, are so critical to our efforts to sever the deadly connection between teens and tobacco.

Earlier this year, I joined Senators JIM JEFFORDS and MIKE ENZI in introducing the Preventing Addiction to Smoking Among Teens, or the PAST Act, which adopts a comprehensive approach to preventing teens from smoking. The bill gave clear and comprehensive authority to the FDA to regulate tobacco products and incorporated the FDA's recommendations on combating teen smoking, such as strong warning labels, a ban on vending machine sales, a ban on outdoor advertising and brand name sponsorship of sporting events, and prohibition on the use of images like Joe Camel and the Marlboro man. The legislation also held tobacco companies accountable by imposing stiff financial penalties if the smoking rate among children does not decline.

Moreover, the legislation incorporates strong measures to ensure that restrictions on youth access to tobacco products are tough and enforceable, and it promoted the development of State and local community action programs designed not only to educate the public on the hazards of tobacco and addiction, but also to promote the prevention and cessation of the use of tobacco products. We need to focus on cessation programs. They are an important part of this bill.

It also called for a comprehensive, tobacco-related research program to study the nature of addiction, the effects of nicotine on the body, and ways to change behavior, particularly that of children and teens. We don't know enough about addiction yet.

And finally, and very important, it called for a national public education campaign to deglamorize the use of tobacco products to discourage teens from smoking.

Mr. President, we have made tremendous progress in recent years in making our streets safer from alcohol-impaired drivers. This was accomplished not only through tough drunk-driving laws, but also through a very effective national advertising campaign waged by Mothers Against Drunk Driving and others that has resulted in a change in our Nation's attitudes toward drinking and driving. This is the approach that we need to take to curb teen smoking.

The legislation we are considering this week contains many of the public health provisions that were included in the PAST Act. While the legislation before us tonight is not perfect and will undoubtedly face many more amendments during Senate consideration, it does give us a critical opportunity to address the teen smoking epidemic in a strong and comprehensive way.

I yield the floor.

Mr. FAIRCLOTH. Mr. President, while we may all agree that teenagers should not be smoking, this bill goes well beyond reaching that goal.

We should all be deeply concerned about the ''tax and spend'' approach that the bill takes to resolving a social problem. The bill reaches right into the pockets of hard-working low- and middle-income adults who, even tobacco's most staunch critics acknowledge, have every right to smoke if they so choose.

And, it takes their hard-earned dollars to create yet more federal programs and to pay trial lawyers billions of dollars. We're literally grabbing money from the poorest Americans to buy trial lawyers more Learjets.

To what end? There appears to be uncertainty as to whether price increases really have the effect of getting kids to stop smoking or to never start in the first place.

And what is the real motivation here? If it were really to cut smoking, we wouldn't phase it in, we would drop it right at once. But we're not doing that because the tax-and-spenders want the revenues. I know they're not doing it for the tobacco companies.

We all know that this isn't about smoking—it's about money.

What unpopular product or industry is next—now that we, our nation's lawmakers, have decided that ''and justice for all'' really doesn't mean what it says.

First, let's discuss the taxes imposed by the bill. Lots of people are jubilant at the prospect of this legislation passing. The plaintiffs' lawyers would become fabulously wealthy; the public health community would get all of its favorite projects generously funded; and, of course, the bureaucrats will get write volumes of new rules.

The ones who won't be so happy are the working class families who have been targeted to pay for it all.

In short, the McCain bill, through its highly regressive tax provisions, inflicts enormous costs on lower- and middle-income families. Let me put this regressivity problem in concrete terms. The increased excise tax payments under the McCain bill are projected to exceed $690 billion over the next 25 years.

Based on analyses by the Joint Committee on Taxation, families with incomes less than $30,000 a year will wind up paying roughly 43 percent of these taxes. In other words, under the bill, families earning less than $30,000 a year will have to pay roughly $300 billion in new taxes over the next 25 years.

This amounts to more than the total income taxes that these families are expected to pay over the same period of time.

The numbers are even more striking if we look at families earning less than $75,000 a year. Other experts have estimated that families in this category will pay more than 83 percent of all the tobacco excise taxes, which means that families earning less than $75,000 a year will, as a group, pay more than $570 billion in new excise taxes as a result of the McCain bill.

Where are the cries about regressive taxes? We're all so used to the long speeches about taxes on the poor. Or is that argument just used for convenience? This is the largest tax increase on the poor in years—if not in all time!

It gets even worse. The numbers I just cited only take into account the excise taxes imposed by the bill. The reality is that the increases in the prices of tobacco products resulting from this bill will be substantially greater in magnitude. This is because of the look-back payments and the increased sales taxes as well as wholesaler and retailer margins that will be tacked on to any excise taxes.

It is estimated that, based on projections of the actual increases in the prices of tobacco products, the true cost over the next 25 years will be more in the range of $380 billion for families earning less than $30,000 a year. it will be more than $735 billion for families earning less than $75,000 a year.

These are truly staggering numbers. To put them in perspective, it is projected that once the new excise taxes under the McCain bill are fully phased in, the annual cost to the family of a smoker earning less than $30,000 a year will be $875.

For a smoker's family earning less than $75,000 a year, the cost on average will be more than $950 each year. Now, a figure of $875 or $950 a year may not sound like much to these plaintiffs' lawyers who are expecting to get hundreds of millions of dollars. But I can assure you that this money means a lot to families trying to get by on $30,000 a year, or even on $75,000 a year.

If this doesn't persuade you, let's hear from the experts on Wall Street. As noted by Morgan Stanley analyst, David Adelman: ''98.5 percent of cigarettes are legally purchased by adult smokers, and therefore higher excise taxes will unfairly (and regressively) penalize adult consumers who choose to smoke.''

So, we're talking about hundreds of billions of dollars in new taxes to try to stop 1.5 percent of tobacco users from illegally buying tobacco. Why not just impose penalties on children who try to purchase tobacco? Well, I suppose, because it wouldn't be a jackpot for trial lawyers and Washington bureaucrats. The fact that it might help the children is irrelevant.

Mr. President, I, for one, was not elected to sock the American taxpayer with more taxes. If teens are really our target, we owe it to the taxpayer to first explore other non-price measures to combat youth smoking.

At a minimum, we need to explore whether there are ways to rebate these increased taxes back to the adult smokers who paid them—rather than using these regressive taxes to fund huge new government programs.

Turning to the bill's disturbing reliance on new government programs, I find it highly ironic that we are here debating a bill that will increase the size of the federal bureaucracy when this is the Congress that is supposedly committed to reducing federal government bloat.

The bill takes over half a trillion dollars in tobacco funds to fund new social programs or enlarge existing programs.

We also need to think long and hard about the bill's Orwellian approach—giving the federal government more power to look over our shoulders regarding the personal choices we make.

I'd like to take this opportunity to read into the RECORD a few excerpts from recent articles, articulating these concerns:

> Most Americans may not like smoking, but that doesn't necessarily mean they favor a big-spending nanny state. Yet if President Clinton and his supporters are allowed to succeed with this tobacco pact, the same extortionist tactics will undoubtedly be applied to other ''sins.'' Just imagine how much government could ''do'' by slapping a health tax on Big Macs and Budweiser.

That's from the Detroit News, on April 24, 1998.

I urge my colleagues to learn from experience. Too many times in the past, Washington has raised taxes in the name of one feel-good social program or another. The American people have consistently indicated that they are tired of that practice.

We on the Republican side of the aisle were supposedly sent here to see to it that the tax and spend era of big government ceases to exist. I'm not so sure we're holding up our end of the bargain when we propose to pass legislation along the lines of the bill we're debating today.

As I raised earlier in my remarks, we appear to be forging blindly into a tax and spend approach to combating youth smoking, even though it is highly speculative that higher prices will even have this desired effect.

This legislation is going to result in a massive price increase for the entire smoking population, including the 98 percent of legal adult smokers. I think it is important that my colleagues are aware of all the facts before they vote on it.

A Cornell University study found that there is no significant correlation between price levels and the youth smoking rate.

This study, conducted by researchers at the Department of Policy Analysis and Management of Cornell University over a period of four years, reexamined the relationship between price increases on tobacco products and the likelihood that children will smoke.

It analyzed the smoking habits of over 14,000 children in grades 8 through 12. To quote the study's conclusion: ''the level and changes in cigarette taxes [is] not strongly related to smoking onset'' for children between 8th and 12th grades.

In addition, this study casts doubts on the results of previous studies which have directly linked smoking rates among children to price, noting that ''* * * youth who face different tax rates also face different anti-smoking sentiment * * *.''

The study suggests that previous research on youth smoking failed to take into account differing public perceptions that smokers face across the country. The Cornell study attempted to eliminate such extraneous information from their results.

Removing the effect of other factors, such as different State smoking-related legislation, allowed researchers ''to directly examine the impact of changes in tax rates on youth smoking behavior, and our results indicate this impact is small or nonexistent.''

This view is also supported by statistical evidence from other countries. As Martin Feldman of Salomon Smith Barney has noted:

> But we all know that kids don't stop smoking because of the price of cigarettes. Let me give you an example. In England, between 1988 and 1994, cigarette prices rose in real terms, by 20 percent. In '88, 8 percent of them 11 to 16-year-olds smoked. By '94, 13 percent of them smoked, after the price increase. The White House will not take this into account. And I don't understand why.

And, it's not just academia that questions whether increased prices will deter kids from smoking. It is the kids themselves. Just ask the four bright, young citizens who recently testified before the House Commerce Subcommittee on Health and Environment on March 19, 1998.

Of the four who testified about the effects of price increases on youth smoking, three clearly stated that price increases would have no effect on the number of youth smokers, and the fourth didn't know what the result would be.

As one teenager testified, ''[I]f money were a huge issue, then kids wouldn't be buying marijuana as much.

Another teenager testified:

> [I]f you look, it's kind of weird how, people would be willing to pay $150, $200, for shoes. And it's completely outrageous; but people will complain about it. They'll moan and groan; but they'll still pay. And, when it comes to cigarettes—how much is it? Two dollars a pack?

We've heard it from the horse's mouth.

I closing, I know that the tobacco companies have become so unpopular that nothing seems out of bounds. But,

whatever our views are about how much pain to inflict upon the industry, let us not forget that Congress also has an institutional responsibility.

We should be concerned that the McCain bill will set a terrible precedent that will haunt us for years to come. If we begin to use the tax code as a coercive means of social engineering, then I submit that there is no end in sight.

Today, smokers will be asked to pay a huge share of their income to the federal government and tomorrow, who will be next?

I fear the precedent of the anti-smoking remedies now before Congress. What will they be used for next? Perhaps fat. Excuse me, Big Fat. As I understand it, fat, when used as intended, causes heart disease, which actually kills more people each year than smoking. And have you seen any of those chocolate ads, the ones targeting children, or the adult versions, where a beautiful woman caresses a nougat bar with her moist alluring lips? Consider that there are no warnings on boxes of high-fat cake about the hazards to our health, no restrictions on purchases of bacon by people under 26 and, to my knowledge, no lawsuits. How about a fax tax?

That's from Fred Barbash in the Washington Post, April 19, 1998.

Mr. President, I believe that passage of the McCain legislation is going to have a dramatic impact on the lives of millions of adult smokers across the country who are going to have to bear a significant price increase to purchase legal tobacco products.

It also perpetuates a tax and spend mentality that our constituents have rejected, as well as sets us sliding down the slippery slope. And, not only do we have no hard data that this is going to achieve the goal of preventing kids from smoking, we have evidence suggesting that it won't.

Mr. WYDEN addressed the Chair.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Oregon is recognized.

Mr. WYDEN. Mr. President, I rise tonight to take this opportunity to discuss why I believe it is so important that the U.S. Senate pass strong legislation to protect our children from the tobacco companies that are preying on them.

I got my real start in public service in Eugene, OR, right after I got out of law school in my twenties in Lane County in Oregon. I started a senior citizens legal clinic. I was able to get almost all of the attorneys in town to volunteer their time, coming to the senior citizens center to help the older people with the varied legal problems that seniors have.

At the legal clinic when I was in my twenties I saw firsthand the extraordinary health consequences that smoking has for our citizens. I saw older people come to that legal clinic in Lane County in Oregon racked with emphysema. They were struggling for every breath.

I found myself, having organized this legal clinic to help older people, having to console the widows and widowers of cancer victims, families that lost loved ones years and years before their time. I saw then when I set up that senior citizens legal clinic exactly what cigarettes can do to the health and well-being of our citizens and the toll that they take on American families.

So when I decided to seek elected office I said that I would put a special focus on my service in the U.S. Senate in trying to improve the health care of our citizens. I said that I wanted to focus on health care issues in a meaningful way, because I came to feel that if a person doesn't have their health care, doesn't have well-being, then they can't really focus on much of anything else. If they and their loved ones can't get access to decent medical care and they are suffering, there really aren't many other issues that a person and a family can focus on.

When I came to the U.S. Congress, I said I am going to remember all those seniors that I met at the legal clinic when I got out of law school, and I said if we really are going to take strong steps to improve the health of our citizens, we had to take on these tobacco companies, and that we will take them on even if it was a tough fight in order to make the lives of our citizens better when they got older. And it was just that simple.

The older people that I saw in that legal program didn't get started smoking when they were 48 or 55. They got started in their teens. They got started as kids when they were the age of Adam Wyden and his sister Lilly.

So I felt then that all other issues revolved around whether our citizens had their health. I remember those older people who came to the legal clinic in Oregon. I said we are going to take steps to make their lives better, and I am going to make that a special focus of my service in the Congress.

So when I was elected to the House of Representatives in 1980, I was able to win a position on the House Health Care Subcommittee, a committee that, in my view, turned out some of the most important public health legislation in our country's history under the extraordinary leadership of HENRY WAXMAN. I got to serve with one of the most courageous public officials who has ever served in the U.S. Congress, the late Mike Synar.

Against all odds, against all odds when he faced tremendous resistance in his home district, the late Mike Synar was willing to stand up for kids, and, in fact, wrote one of the first and the most important public health statutes to protect kids against the tobacco companies that prey on them, the statute known as the Synar amendment. Of course, the tobacco companies worked very hard to try to get around that because the Synar amendment stood for the proposition that we were going to enforce tough laws to protect our minors at the State level. That was too much for the tobacco companies, just as they sought hard to get around the early advertising restrictions on the electronic news, just as they sought to get around the early warning labels, they sought to evade the mission and the specific requirements of the Synar legislation.

So Mike Synar, HENRY WAXMAN, I, and others worked through the 1980s to try to rein in these tobacco companies and improve the lives of our children.

A little over 4 years ago we were at the now well-recognized hearing with the tobacco CEOs who under oath addressed for the first time before the U.S. Congress these major public health questions that the Senate has been occupied with over the last couple of days.

Mr. President, it was an extraordinary hearing. It went on for more than 7 hours. The executives said, for example, that cigarettes were sort of like Hostess Twinkies. They said that, of course, they never ever would target young people. And for more than 7 hours they said under oath that cigarettes essentially were not something that the U.S. Congress should be focusing on. They said it is just like any other health concern a person might have with sugar or with fat. Why is the U.S. Congress singling out tobacco, was essentially their message over a hearing that lasted more than 7 hours.

Chairman WAXMAN, Mike Synar, and others did, in my view, a superlative job trying to put the key issues on the record. When it came to my initial turn I felt that it was especially important to get the executives' position on whether nicotine was addictive. We had them all in front of the U.S. House of Representatives, the Subcommittee on Health. They were under oath. So I simply said I am going to go down the row. I am going to go down the row and ask each one of these executives one after another whether nicotine is addictive. So I began.

The first executive said nicotine was not an addictive substance. The second executive said that nicotine was not addictive. The third one raised questions again about why anyone would possibly have reservations about this issue, specifically why we would be asking whether nicotine was addictive. And all of the executives then under oath said for the first time that nicotine was not an addictive substance.

They contradicted the Surgeon General, who has come before health committees in the Congress for more than 20 years, and perhaps even more importantly, they contradicted what their own executives were saying for more than 30 years. That, of course, came out after the hearing took place. But what has been especially telling is that, after that historic hearing in 1994 when the executives said nicotine wasn't addictive and didn't target kids, a voluminous record has been made by various committees in the Congress which documents and makes very clear that these executives, in fact, knew all along that nicotine was addictive. There was not any question in their minds about whether it was addictive.

Their own documents had proved that. But yet they told the U.S. House of Representatives, the Subcommittee on Health, and myself specifically under oath that nicotine was not addictive.

I think that moment contributed in a significant way to our achieving a chance now to pass important legislation to protect our children. But there were a number of other important issues that were brought up that day before the Health Subcommittee that have implications even this evening as the Senate considers this historic legislation. And I would like to just touch on one of those.

At that hearing, it came to light that one tobacco company, Brown & Williamson, was in fact genetically altering nicotine in order to give it an extra punch, in order to make it more addictive to children and others who used the product. The Food and Drug Administration under the leadership of David Kessler had essentially brought this to light. The committee confronted the Brown & Williamson Company, and they were under oath and said that they would cease utilizing this high-nicotine tobacco called 1Y. So this was more than 4 years ago. It came to light as a result of the investigative work done by the Food and Drug Administration.

After the Brown & Williamson Company was caught using 1Y, this genetically altered, high-nicotine tobacco, they said they would not do it anymore.

A number of things happened over the last 4 years. One of them was that I had the honor of being chosen by the people of Oregon to serve in the Senate, and I was chosen to serve in the Senate January 30 of 1996. Having had the additional privilege of being named to serve on the Senate Commerce Committee under the outstanding leadership of JOHN MCCAIN, and our ranking Democrat, FRITZ HOLLINGS, I had a chance to participate in the next round of important tobacco hearings under JOHN MCCAIN's leadership. We held a number of them prior to the committee's consideration of the legislation that is now before us. And when Senator MCCAIN asked the executives—and a number of them, of course, are new—to come before the Senate Commerce Committee, I asked Brown & Williamson what was the current status of the use of 1Y genetically altered, high-nicotine tobacco.

The reason I asked the question is that I had read news reports that this special, genetically altered, high-nicotine tobacco was in fact still being used by the Brown & Williamson Company even though the company had said under oath that it would no longer use this genetically altered, high-nicotine tobacco. And in fact at that important hearing chaired by our leader on the committee, JOHN MCCAIN, Brown & Williamson said in fact that they are now working off a small stockpile of genetically altered nicotine. There is already a criminal investigation underway.

The reason that I bring this to the attention of the Senate tonight is for just one reason. If this company is so brazen as to engage in this conduct, having promised the American people that they would no longer do it again, and now being watched under the scrutiny of the Congress, what will it be like, Mr. President and colleagues, when in fact the hot spotlight is turned away from tobacco? This company has engaged in activity that they pledged to the American people they no longer would engage in, and they told the McCain committee that they are now working off a small stockpile of genetically altered, high-nicotine tobacco and that this product is being used in our country and overseas.

The other reason that I bring this to the attention of the Senate, Mr. President and colleagues, is this goes right to the heart of the industry's argument that it is a new day and that they are pursuing a new standard with respect to corporate citizenship. Before the McCain committee, the executives came and said: We realize that what happened in yesteryear was no longer acceptable. We are going to clean up our act. We are going to make sure that young people are not targeted.

I think it is the impulse of all of us to say, new executives, new day; let's look at this anew. But when it came to light that Brown & Williamson was again using genetically altered, high-nicotine tobacco after promising the American people and the Congress that they would no longer engage in the practice, that is a pretty blatant contradiction of the claim that things really are different, that it is a new day, and that tobacco companies want to clean up their act.

As we consider this legislation on the floor of the Senate, Mr. President and colleagues, the Justice Department continues its inquiry into the use of this genetically altered nicotine, and there have already been criminal pleas that have been entered into.

Now, having said that, and noting some of the great challenges, let me also talk about what I think is a significant success, and I am particularly pleased to have an opportunity to do it while Chairman MCCAIN is here and on the floor of the Senate.

Mr. President and Chairman MCCAIN, I will tell you that when I left the Waxman hearings in 1994, walking out of that hearing room with the late Mike Synar, I told him that I was not convinced that we would make real headway in this fight to protect our children in our lifetime. I said to Mike Synar, ''We are going to be up against all of the odds. We are going to be up against a lobbyist tidal wave. I am not sure we are ever going to do it in our lifetime.''

We lost the late Mike Synar years before his time, but a lot of us said that we are going to continue that work. And we have the opportunity to do it because Chairman MCCAIN was courageous enough to take on this issue, come to Members of the Senate like myself, come to the public health groups, and say that we are going to focus on this issue until we get it done.

He did not minimize how tough a job it was. All he has to do is look down the row of his committee members. He has our good friend, WENDELL FORD, sitting a few places away from me. It is going to be a challenge to get WENDELL FORD and RON WYDEN to support a bill. We both did in the Senate Commerce Committee.

I commend Chairman MCCAIN at this time because we would not be on this floor, we would not have made as much progress, had he not been willing to take this issue on. I say to you, Mr. President, and to the country, we have come a long way. If you had told me 4 years ago, when I walked out of the Waxman hearings, that we would now be debating whether to impose fines of billions of dollars on companies that do not meet tough targets in reducing youth smoking, if you had told me 4 years ago that we would be having a debate on how to do that and impose those penalties, I would have asked you, ''What are you smoking?'' Because I thought there would never ever be an opportunity like that in my lifetime.

We have that opportunity because JOHN MCCAIN has focused on this issue and brought together a group in the Senate that certainly does not agree on every single issue—that has been very clear—but does agree on how important it is to focus on this and get the job done.

Now, I do want to touch for just a few additional moments on several of the specific issues that have been important to me, and talk for a bit about why that is the case.

First, I am certain that many Members of the Senate have not heard about the accountability requirements that are in the legislation that we take up this week. And the word ''accountability,'' for me and most public health specialists, is probably the single most important word in the discussion of this whole subject, because in the past it has not been possible to hold the tobacco companies accountable. For all of the past legislative efforts designed to rein them in—the Synar amendment, the early warning labels, the restrictions on electronic advertising—the industry would use their marketing and entrepreneurial talent and would find a way around them. So when we focused on enforcement issues in the committee, I began to discuss with Chairman MCCAIN and the bipartisan leadership of the Senate Commerce Committee how we could assure our children and future generations that there would be an ongoing watchdog who would scrutinize the practices of the tobacco companies when they inevitably try to get around the new law that I hope this Congress passes and that I know President Clinton will sign.

The tobacco companies, once again, when we get a new law, will put their

entrepreneurial and marketing talent to the task of getting around it. They will have scores of slick strategies to employ to try to get around these protections. With the accountability requirements in this legislation, we will have an ongoing watchdog who will be in a position to let us know when the tobacco companies start trying to evade an important new public health law, as they have done every single time for decades.

With the accountability requirements, public health officials, the Surgeon General, the Director of the Centers for Disease Control, and the Office of Minority Health, will be involved in looking at company-specific behavior to determine whether a company is trying to evade the requirements of this law. They will be able to recommend at any time that a company that seeks to evade the strictures of this statute ought to have any liability protection they have pulled. Tobacco companies clearly have not been straight with the Congress. All their documents that came out after the 1994 hearings that contradicted what the executive said under oath in 1994 have made it very clear to me the single most important word in this debate—the single most intellectually honest word in this debate—is ''accountability.'' I, again, thank Chairman MCCAIN and his staff. They were under a lot of pressure from powerful interests to essentially strip out these accountability requirements. Once again, Chairman MCCAIN hung in there for the public health, and I want to tell him how much I appreciate that.

There are two other issues I would like to touch on briefly, with the first being the issue of the health care of our minority citizens and those in communities inhabited by many minority Americans. For years, again as has come out in documents since the 1994 hearings, the tobacco companies have shamelessly targeted these minority youngsters and minority communities to sell their products. I think it is critically important now that in this legislation there be resources specifically targeted to these minority communities and to minority youngsters who are preyed upon by the tobacco industry. This legislation provides a first step toward addressing the health concerns of minorities by assuring that all of the State efforts for smoking cessation and prevention include minority populations, and that services can be made available through community-based organizations.

In the Congressional Black Caucus, for example, Congressman BENNIE THOMPSON has done a yeoman's job in terms of trying to focus both the other body and the U.S. Senate on this issue. I know they have talked about this with Chairman MCCAIN. This issue is not one that we are going to allow to be swept under the rug. It is not right to see so many minority youngsters get involved with tobacco at an early age, and it is unconscionable the way these tobacco companies have targeted our minority communities. In addition to the support for the State plans for smoking cessation and prevention, the Office of Minority Health will be represented on the accountability panel. In my view, this is a significant win for the cause of minority health.

We are going to have much to do as we consider these questions through the rest of the debate in the U.S. Senate and in the House. I am particularly troubled about the prospect that some of the focus on improving the health of our minority citizens, and specifically seeing a reduction in smoking among minority youngsters, will get lost if the final judgment by the Congress on this issue is to create a State block grant approach. I don't want to see this issue, which has been neglected for so long, lost in some sort of amorphous block grant where, once again, the health needs of minority youngsters and minority communities get lost. So there are going to be a number of Members of the U.S. Senate who care about this issue, particularly Senators JEFFORDS and HARKIN, and I am looking forward to working with them to strengthen the minority provisions, minority health provisions of this legislation. I know that Congressman BENNIE THOMPSON is going to bring his talents and energy to doing that as the House considers the bill as well.

Finally, there is one last issue I would like to raise. I have been talking tonight about the needs of youngsters in the United States. I represent the people of Oregon. I have the privilege of representing them, serving with my colleague, Senator GORDON SMITH who, in my view, has been a very strong voice for protecting youngsters in this debate. I appreciate that very much. We are both very proud to represent Oregon, and to work to improve the health of youngsters all across this country.

But I come tonight, as well, to talk about an issue that I think ought to strike at our moral conscience, and that is, as I have said, to say that it is critically important that we protect kids in Bend, OR, across the country, in Bangor, ME, and communities in between. But it is also critically important to protect kids in Bangladesh and Bangkok, because a child is a child is a child. And I hope—it is my fervent hope—that when this bill heads to the President of the United States, that we will have put in place extremely strong health protections for youngsters across the world.

Let us not say on our watch that to pay for a settlement, a tobacco settlement in the United States, the children around the world lost their health. Let us not sacrifice the lungs of youngsters around the world to pay for a settlement here. Let's protect kids in the United States. That is what we have a sworn obligation to do. But let us not forget youngsters around the world who don't have lobbyists, who don't have lawyers and the great array of talent that so many powerful interest groups have.

I will say that if we don't speak for those children all over the world on our watch—the Presiding Officer of the Senate and I are about the same age, I am a little older, I resent that, but a little older—but on our watch, millions of youngsters around the world will get sick during our lifetime and die needlessly. I know that the Presiding Officer and all our colleagues don't want to see that. That is why I think it is so important that we pass the provisions in this legislation that will protect youngsters around the world when the tobacco companies target them.

Make no mistake about it, that is the game plan. The game plan for the tobacco companies is consumption is going down here—it is well documented—and it is going up at a staggeringly high level around the world. The evidence shows, for example, that for every smoker who quits in the United States, two start in China. There are countries around the world that actually are in support of companies that sponsor contests to see how many cigarettes a youngster can smoke at one time. If we don't take the steps to protect these youngsters around the world who are envisaged in the McCain legislation before us, we will have the bizarre situation where a tobacco company in the United States won't be able to slap a decal on some car or something that is utilized at a sporting event, but that same company will be able to participate in these contests around the world to see how many cigarettes a youngster can smoke.

I don't think we ought to have that kind of double standard where we say we are going to protect kids here but we are really not much interested around the world. I know that this is an issue that a lot of Members are not familiar with, but we are going to take the time over the next few days and, in the days ahead, to make sure that they are, because I think those kids count, too.

The legislation before us today is not all that I would want, and it is not all that Senator DURBIN and Senator WELLSTONE and Senator HARKIN and many others who have been interested in this issue would want either. We really had our ideal plan and consideration in the Senate Commerce Committee. Chairman MCCAIN was straight and realistic with us. We knew that we couldn't win that kind of package on the floor of the U.S. Senate, so we vowed that we were going to lay a foundation to protect the health of youngsters around the world, as well as youngsters here, and that is what we have done in this legislation.

It wouldn't be my first choice, but to tell you the truth, Senator HOLLINGS, who very graciously worked with us essentially nonstop over the weekend, wouldn't think it is his first choice either. But that is what the legislative

process is all about. What this legislation does with respect to kids around the world is very, very important.

Make no mistake about it, it is a strong beginning at laying out a global policy to protect kids around the world. It essentially does three things.

First, for all time—for all time—it gets the Federal Government out of the business, through the U.S. Trade Representative and other agencies, of promoting the sale of tobacco overseas. For the first time, the U.S. Trade Representative will be directed to consult with the Department of Health and Human Services concerning any trade actions related to tobacco. The U.S. Trade Representative will not be acting in a vacuum. They are required to let the Congress of the United States know when tobacco companies approach them on these matters. I think it is fair to say that with respect to the role of the U.S. Trade Representative and the Federal agencies that are charged with leading the international trade effort, that never again, as a matter of Federal law, will we have them promoting the sale of tobacco overseas.

Second, for the first time, we will require that U.S. health warnings on cigarette packs for exports are carried in a specific way. In effect, we are making it clear that the kind of warning labels, health-specific, that we have in the United States have to apply overseas. If the other governments around the world choose to put another warning on, it has to be substantially similar—substantially similar—in terms of the warning provided to our citizens.

It would not be right, as our colleague DICK DURBIN has said, to let them off by putting on a warning, ''Well, cigarettes may cause bad breath,'' or, as some have seen in other parts of the world, ''Cigarette smoking may be inconvenient to your neighbor.'' That won't do.

Around the world, as a result of the legislation incorporated into the McCain bill that we are considering now on the floor of the U.S. Senate, the warning that is health specific used in our country will have to be used around the world by regulation unless it is substantially similar. Those labels will make it clear that smoking is harmful, and they will be scientifically based.

The administration is charged with finding the most effective compliance mechanism and assuring that the labels are in the language of the country of destination. That is extremely important and something long sought by the public health groups.

Finally—I guess our colleague from Missouri, Senator ASHCROFT, took particular issue with this—this for the first time puts resources into the effort to work in an educational fashion around the globe. Several hundred million dollars is devoted to our participation in these global kinds of health efforts which are critically important, because if, for example, we learn about an important educational innovation that really does reach kids—for example, some of the counteradvertising that is already showing real promise in deterring youth smoking—we want to make sure that this kind of information is easily shared with the global network of public health specialists.

This isn't going to be sort of sock the Government. This is to make sure that kids around the world don't get sick. If we can prevent those illnesses, those countries will be able to avoid some of the much larger medical bills which often, as our colleagues know—particularly the Presiding Officer of the Senate because of his role in foreign affairs—and avoid coming to our Government to ask for support to deal with it.

So again, if we can prevent these illnesses among young people, particularly as it relates to tobacco, my sense is that the Presiding Officer of the Senate will see fewer demands for help with much greater medical bills which will come about as youngsters get hooked and addicted to tobacco.

Finally, the bill sets up a system to combat smuggling, and in much the same way the Federal Government today enforces the law against the smuggling of alcohol. And in regard to the smuggling provisions, I particularly want to commend the Senator from New Jersey, Senator LAUTENBERG, who has long been involved in this issue.

The tobacco companies, as a number of our colleagues already noted to me, do not want these provisions in this legislation. They do not want these provisions to ruin their business plans to target kids overseas. That is what the game plan is all about, Mr. President, and colleagues. It is about recognizing that consumption is going down in our country and skyrocketing around the world. With the export provisions, through removing the U.S. Trade Representative and Federal officials from the business of promoting tobacco permanently, through the warning labels, through the funds to participate in educational efforts, we make a very strong start to protect kids around the world. And I again thank Chairman MCCAIN for his help.

Mr. President, I want to wrap up with one last point.

I think I am the only Member of the U.S. Congress on either side who had the privilege in the last few years to participate in historic hearings in both of the Commerce Committees. I had the honor of serving on HENRY WAXMAN's subcommittee as a Member of the other body and I am now honored to have the chance to serve with JOHN MCCAIN, who has done so much to bring this bill to the floor tonight.

I will say that I think we have a once-in-a-lifetime opportunity to protect kids. That is what this is all about. At the end of the day, it is not about all these arcane and technical questions that we are debating on the floor of the Senate. That is not to say those questions are unimportant. They are. They are very important.

I will tell you, all of our colleagues who I have heard have been asking important questions. But as we ask those important questions, let us not lose sight of the end game here, which is to protect kids.

We have a President who is willing to take on the tobacco lobbies. That is a major reason we have come thus far. We have a chairman of the Senate Commerce Committee who has reached across both sides of the aisle to try to fashion a strong bill. We have public health groups all over this country who have made the case with their volunteers, with their physicians, with their nurses, with all of the individuals who participate in these superb organizations that now is the time, now is the time to act. And that means passing a bill in this Senate.

It is not going to be the perfect bill. It is not going to be what any of us would like in an ideal world. That is why I said there are a number of aspects of the export provisions that I was very bothered to see disappear. Senator HOLLINGS has concerns about what is in there—that is the process of fashioning legislation—but we were able to make a strong start at protecting our kids. And if the Senate passes this bill, and does it in a timely way, we can make a difference for kids here and around the world.

But I say, Mr. President, and colleagues—and I will conclude with this—the clock is ticking. It is not exactly an atomic secret that there are not many days left in the session. And delay is the best friend that the advocates of the status quo could possibly have. Delay is the very best friend of the tobacco lobbies that want to engage in business as usual. Delay is a perfect opportunity for all of those who say, ''Tobacco company profits ought to come before the health of kids, that, well, we just have to study this longer. We don't know all the facts.''

I say, Mr. President, and colleagues, that we will have a chance all the way through this process, through the amendments on the floor, and the House considers its legislation and passes it, as we go to conference, we will have a chance to learn more, to refine this legislation and to improve it. That is what we did through the many hearings that were held in the Senate Commerce Committee. That is what has happened through the work done by the Labor Committee, the Judiciary Committee, with so many of our colleagues on both sides of the aisle. But let us not miss this opportunity to pass this legislation. We have to do it soon. The clock is ticking.

Mr. President, this bill will be good for our children. More importantly, it will be good for our children's children. It is my fervent hope that this Senate passes this legislation, and does so in an expeditious way.

Mr. President, I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from the great State of Arizona.

Mr. MCCAIN. Before my colleague from Oregon leaves the floor, I express to him, first of all, my appreciation for his kind remarks, which I do not deserve. Second of all, I thank him for all the work that he has done on this legislation. Without him and his incredibly active participation in this effort, we would not have been able to reach the goal of getting a bill through the Commerce Committee and now to the floor of the Senate.

But most importantly, I thank the Senator from Oregon because he was involved in this issue very long before I or most of the Members of this body were involved. He and former Congressman Synar embarked on this effort long ago. And sometimes we have a reputation, which is well deserved as politicians, of butterflying from one issue to the other and forgetting the one of yesterday for the one of today and tomorrow.

Senator WYDEN does not take that approach on any issue, but on this issue he has been steadfast. He has been courageous. And, very frankly, he has been criticized from time to time, when the mood of the country was not as it is today. There was a time when we did not know all of the details about the tobacco companies having deceived the American people. There was a time when the tobacco lobby, we all know, had a much greater influence on both sides of the Capitol than today. It was during those times that Senator WYDEN carried the torch for the children of America.

I will always be grateful to him. And history will record that Senator WYDEN was a key and vital player in that effort. So I extend my gratitude to Senator WYDEN and remind him that we have a great deal yet to do. I know I can count on him to do it.

EXPLANATION OF VOTE

Mrs. BOXER. Mr. President, I wish to inform the Senate of the reason I voted ''present'' on the Faircloth amendment related to attorneys' fees in tobacco litigation.

I abstained on this vote because my husband's law firm is co-counsel in several lawsuits against tobacco companies filed in California state court by health and welfare trust funds.

The Ethics Committee has advised me that voting on an amendment such as this ''would not pose an actual conflict of interest'' under the Senate Code of Conduct.

However, I decided that this vote could create the appearance of a conflict of interest and therefore I abstained by voting ''present.''

MORNING BUSINESS

Mr. MCCAIN. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RETIREMENT OF STUART BALDERSON

Mr. LOTT. Mr. President, this evening, a number of us will be gathering together to honor Stuart Balderson who recently retired from the United States Senate after nearly four decades of exemplary service. I would like to take just a few moments to thank Stuart and to wish him well as he begins the next chapter of his life.

On May 23, 1960, Stuart Balderson, a twenty-two year old fresh out of the Navy, came to work in the United States Senate. At that time, Lyndon Johnson was the Majority Leader and Dwight D. Eisenhower was in the White House. Stuart was brought on board by Secretary of the Senate ''Skeeter'' Johnston and assigned a position in the Senate Finance Office. Over the course of the next 38 years, Stuart worked in every department of that office, including payroll, accounting, retirement and benefits, and legislative budgeting. In 1980, he assumed its top position, Financial Clerk of the United States Senate, and served in that capacity for the next 18 years.

Over the past 38 years, Stuart has seen a lot of history on Capitol Hill. To give you an idea of how much things have changed, when Stuart began working in the Senate, the Capitol Building was still using direct current from its own generators. You needed to use an AC adaptor if you wanted to plug in any electrical equipment, but there wasn't much electrical equipment to plug in. In those days, ''computers'' referred to the people who calculated the numbers rather than to any machines they used. Stuart's predecessor, Bill Ridgely, used to call those the ''Bob Cratchitt'' days of the Disbursing Office, when the Senate's bookkeepers, like Bob Cratchitt in Dickens' A Christmas Carol, wore green visors and armbands and sat on high stools.

A lot has changed since then. The number of Senate employees relying on the Senate Finance Office to handle their paychecks has more than doubled. Total Senate expenditures have risen from $25.9 million in 1960 to $583.3 million in 1997. In many ways, Stuart grew with the Senate, but the two things that always remained constant were his dedication to this institution and the financial integrity he brought to the job.

I know I speak for many other members and staff, past and present, when I say that we will miss Stuart. We commend him for his long and outstanding service and we wish him well as he retires.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, May 19, 1998, the federal debt stood at $5,501,436,319,981.88 (Five trillion, five hundred one billion, four hundred thirty-six million, three hundred nineteen thousand, nine hundred eighty-one dollars and eighty-eight cents).

One year ago, May 19, 1997, the federal debt stood at $5,344,451,000,000 (Five trillion, three hundred forty-four billion, four hundred fifty-one million).

Five years ago, May 19, 1993, the federal debt stood at $4,285,943,000,000 (Four trillion, two hundred eighty-five billion, nine hundred forty-three million).

Ten years ago, May 19, 1988, the federal debt stood at $2,523,047,000,000 (Two trillion, five hundred twenty-three billion, forty-seven million).

Fifteen years ago, May 19, 1983, the federal debt stood at $1,265,692,000,000 (One trillion, two hundred sixty-five billion, six hundred ninety-two million) which reflects a debt increase of more than $4 trillion—$4,235,744,319,981.88 (Four trillion, two hundred thirty-five billion, seven hundred forty-four million, three hundred nineteen thousand, nine hundred eighty-one dollars and eighty-eight cents) during the past 15 years.

JIMMY STEWART—AND WHY HE'S REMEMBERED BY SO MANY

Mr. HELMS. Mr. President, when Jimmy Stewart died last July, less than a year shy of his 90th birthday, which would have been today, millions of Americans of all ages felt they had lost a dear friend. They had grown up with great films such as ''It's a Wonderful Life,'' ''Harvey,'' ''The Philadelphia Story,'' and the one that's probably many Americans' personal favorite, ''Mr. Smith Goes to Washington.''

I was fortunate to get to work with Mr. Stewart during the 1970s when we were on the campaign trail across North Carolina. Dot and I will never forget travelling with him introducing him to the citizens who felt that they already knew him.

Perhaps what I like most about ''Mr. Smith Goes to Washington'' is the manner in which Jimmy Stewart and director Frank Capra captured the timeless principles outlined in the Declaration of Independence. In describing the them of the picture, Capra said: ''The more uncertain are the people of the world, the more their hard-won freedoms are scattered and lost in the winds of change, the more they need a ringing statement of America's democratic ideals.''

Jimmy Stewart, Mr. President, in a sense was playing a character modeled after Abe Lincoln. According to Capra, Jefferson Smith was ''tailored to the rail-splitter's simplicity, compassion, ideals, humor and unswerving moral courage under pressure.''

A year ago, on the occasion of Jimmy Stewart's eighty-ninth birthday, John Meroney of Advance, N.C., wrote a Wall Street Journal essay, ''A Hero Larger Than Those He Portrayed,'' celebrating Jimmy Stewart's life and career. I learned about John Meroney when he was a student at Wake Forest University. I am persuaded the reason Jimmy Stewart appeals to John and other young people isn't simply because Mr.

Stewart made some of the greatest pictures of all-time. I believe, Mr. President, that it's the contrast between Jimmy Stewart and so many of those who live and work in Hollywood today. It's hard to imagine anyone out there capturing America's heart the way Jimmy Stewart did, and via his countless films, still does. It's as John Meroney put it, it isn't because Jimmy played great characters. It's because of the way Jimmy Stewart lived his life.

So, Mr. President, in commemoration of the birthday of an American original, James Maitland Stewart, I ask unanimous consent that the text of Mr. Meroney's column be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, May 20, 1997]

A HERO LARGER THAN THOSE HE PORTRAYED

(By John Meroney)

Beverly Hills, Calif.—James Stewart turns 89 today, and he will mark his birthday in a fitting manner—quietly at home, without the trappings of celebrity that he has avoided his entire life. It's also fitting that a man whose movies celebrate middle American values has lived in the same, rather plain Tudor-style house on a block absent the typical L.A. glitz for almost 50 years.

Mr. Stewart is not just one of the greatest American movie actors of all time, he's also probably the last cultural icon from his generation. Although it helps, working with directors like Ford, Wilder, DeMille and Hitchcock doesn't necessarily bring such exalted status. Nor does having your face projected 50 feet tall on movie screens for four decades. Many others have been that fortunate, yet are now forgotten. The parts you play, the message you carry, the life you live—that's what gives audiences what Mr. Stewart calls the ''little tiny pieces of time that they never forget.''

It was the director Frank Capra, an Italian immigrant who had a love affair with America, who gave Mr. Stewart the roles that stand out as eloquent and intelligent celebrations of American ideals and principles. Perhaps the best of these was found in Capra's 1939 feature ''Mr. Smith Goes to Washington,'' in which Mr. Stewart played Jefferson Smith, an idealistic young man who becomes a U.S. senator only to have his hopes shattered when he discovers that his political heroes are dishonest. In a town where politics is a serious game, he's told, players have to check their ideals at the door. When he challenges this orthodoxy, Smith learns lessons the likes of which Robert Bork and Clarence Thomas could appreciate. But in the end, Smith triumphs, justice prevails, and a political machine is destroyed.

The establishment wasn't amused. Halfway through the Constitution Hall premiere, senators and congressmen began walking out. Members of the press corps, portrayed as elite snobs with their own agendas, were outraged. The Senate majority leader, Alben W. Barkley, called the movie a ''grotesque distortion, as grotesque as anything I have ever seen.'' Ambassador Joe Kennedy wired Columbia Pictures President Harry Cohn from London and pleaded with him to block the European distribution, fearful it would be used as propaganda by the Axis powers.

Moviegoers in America and abroad saw ''Mr. Smith'' differently. In France, it was the last English-language film to be shown before the Nazi ban in 1942. Audiences there spontaneously erupted with standing ovations during Stewart's scene at the Lincoln Memorial. Observed one reporter: ''It was as though the joys, suffering, love and hatred, the hopes and wishes of an entire people who value freedom above everything, found expression for the very last time.''

Like some of his roles, Jimmy Stewart's life also symbolizes the American dream. Born near the Allegheny mountains in the coal mining town of Indiana, Pa., he was raised by parents who instilled in him values Hollywood couldn't corrupt. His father ran the local hardware store, which was, for Mr. Stewart, ''the center of the universe.'' When he won the Best Actor Oscar for ''The Philadelphia Story'' in 1941, he remembers, ''It was 3:45 [a.m.] when I got home and the phone rang. It was my father: 'I hear on the radio they gave you a prize or something. What is it, a plaque or a statue?' I told him it was a sort of a statue. He said, 'Well, send it home to me and I'll put in the hardware store window.' So the next day, I got it, packed it up, and sent it. It was there for 20 years.''

Drafted in 1941—''I keep saying that's the only lottery I ever won''—Mr. Stewart became the commander of an Eighth Air Force squadron, and a genuine war hero. After flying some 25 missions over enemy territory with a copy of Psalm 91 that his father gave him in his pocket, he returned to Hollywood in 1945 as Col. Stewart, and was promptly decorated with the Air Medal and Distinguished Flying Cross. Active in the reserves until 1968, Jimmy Stewart retired with the rank of brigadier general. Of his combat experience, and the horrors of war, Gen. Stewart once said, ''Everybody was scared. You just had to handle that. I prayed a lot.''

During the 1940s and 1950s, while making such popular films as ''It's a Wonderful Life,'' ''Rear Window'' and ''Harvey,'' Mr. Stewart found that his traditional conservative political beliefs were becoming increasingly unpopular among his colleagues. Hearings by the House Un-American Activities Committee and its foray into Hollywood proved troublesome for Mr. Stewart because of his staunch anticommunism. It tested his long friendship with Henry Fonda, an outspoken liberal critical of HUAC. But Mr. Fonda couldn't resist his friend's intrinsic decency, and they agreed not to discuss politics to preserve their friendship. Mr. Fonda also understood that Mr. Stewart's beliefs had not come cheap. Unlike many families here who have escaped making the sacrifices that freedom often demands, the Stewarts lost a son in Vietnam when their oldest was killed in 1969.

The authenticity in Jimmy Stewart's personal life, so evident in his film career, seems to be a rarity in Hollywood. ''There was something so totally real in his own way,'' Kim Novak, his co-star in ''Vertigo,'' told me. ''How often can you find somebody who's spent his whole life in Hollywood but represents so much of America?''

Director Ron Howard acted with Mr. Stewart in ''The Shootist,'' a 1976 film that teamed them with the Duke. ''John Wayne was sort of a mythological figure,'' says Mr. Howard. ''Stewart wasn't aspiring to that. He was a character for us to relate to.''

The way Jimmy Stewart has lived his 89 years is an example today's celebrities—and every American, for that matter—would do well to emulate. When asked in a documentary on his life how he wanted to be remembered, Mr. Stewart answered: ''A guy who believed in hard work, and decent values, love of country, love of family, love of community, love of God.''

George C. Scott, Mr. Stewart's co-star in ''Anatomy of a Murder,'' and now one of his neighbors here, summed it up best, albeit sadly, when he told me: ''They don't make them like that anymore. Hollywood misses them already, I'll tell you that.''÷

REPORT OF THE DISAPPROVAL OF THE DISTRICT OF COLUMBIA STUDENT OPPORTUNITY SCHOLARSHIP ACT OF 1998—MESSAGE FROM THE PRESIDENT—PM 128

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States; which was ordered to lie on the table:

To the Senate of the United States:

I am returning herewith without my approval S. 1502, the ''District of Columbia Student Opportunity Scholarship Act of 1998.''

If we are to prepare our children for the 21st Century by providing them with the best education in the world, we must strengthen our public schools, not abandon them. My agenda for accomplishing this includes raising academic standards; strengthening accountability; providing more public school choice, including public charter schools; and providing additional help to students who need it through tutors, mentors, and after-school programs. My education agenda also calls for reducing class size, modernizing our schools and linking them to the Internet, making our schools safe by removing guns drugs, and instilling greater discipline.

This bill would create a program of federally funded vouchers that would divert critical Federal resources to private schools instead of investing in fundamental improvements in public schools. The voucher program established by S. 1502 would pay for a few selected students to attend private schools, with little or no public accountability for how those funds are used, and would draw resources and attention away from the essential work of reforming the public schools that serve the overwhelming majority of the District's students. In short, S. 1502 would do nothing to improve public education in the District of Columbia. The bill won't hire one new teacher, purchase one more computer, or open one after-school program.

Although I appreciate the interest of the Congress in the educational needs of the children in our Nation's Capital, this bill is fundamentally misguided and a disservice to those children.

The way to improve education for all our children is to increase standards, accountability, and choice within the public schools. I urge the Congress to send me legislation I have proposed to reduce class size, modernize our schools, end social promotions, raise academic standards for all students, and hold school systems, schools, and staff accountable for results.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 20, 1998.*

MESSAGES FROM THE HOUSE

At 12:23 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the Senate amendment to House amendment to Senate amendment to the bill (H.R. 2472) to extend certain programs under the Energy Policy and Conservation Act.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 171. Concurrent resolution declaring the city of Roanoke, Virginia, to be the official site of the National Emergency Medical Services Memorial Service.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 512, An act to establish requirements relating to the designation of new units of the National Wildlife Refuge System.

H.R. 1023. An act to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

H.R. 1522. An act to extend the authorization for the National Historic Preservation Fund, and for other purposes.

H.R. 2202. An act to amend the Public Health Service Act to revise and extend the bone marrow donor program, and for other purposes.

H.R. 2556. An act to reauthorize the North American Wetlands Conservation Act and the Partnerships for Wildlife Act.

H.R. 2652. An act to amend title 17, United States Code, to prevent the misappropriation of collections of information.

H.R. 3039. An act to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to guarantee loans to provide multifamily transitional housing for homeless veterans, and for other purposes.

H.R. 3534. An act to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes.

H.R. 3603. An act to authorize major medical facility projects and major medical facility leases for the Department of Veterans Affairs for fiscal year 1999, and for other purposes.

H.R. 3718. An act to limit the jurisdiction of the Federal courts with respect to prison release orders.

H.R. 3809. An act to authorize appropriations for the United States Customs Service for fiscal years 1999 and 2000, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 512. An act to establish requirements relating to the designation of new units of the National Wildlife Refuge System; to the Committee on Environment and Public Works.

H.R. 1023. An act to provide for compassionate payments whit regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes; to the Committee on Labor and Human Resources.

H.R. 1522. An act to extend the authorization for the National Historic Preservation Fund, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2202. An act to amend the Public Health Service Act to revise and extend the bone marrow donor program, and for other purposes; to the Committee on Labor and Human Resources.

H.R. 2556. An act to reauthorize the North American Wetlands Conservation Act and the Partnerships for Wildlife Act; to the Committee on Environment and Public Works.

H.R. 2652. An act to amend title 17, United States Code, to prevent the misappropriation of collections of information; to the Committee on the Judiciary.

H.R. 3039. An act to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to guarantee loans to provide multifamily transitional housing for homeless veterans, and for other purposes; to the Committee on Veterans Affairs.

H.R. 3603. An act to authorize major medical facility projects and major medical facility leases for the Department of Veterans Affairs for fiscal year 1999, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 3718. An act to limit the jurisdiction of the Federal courts with respect to prison release orders; to the Committee on the Judiciary.

H.R. 3809. An act to authorize appropriations for the United States Customs Service for fiscal years 1999 and 2000, and for other purposes; to the Committee on Finance.

Pursuant to the order of August 4, 1977, with instructions that if one committee reports the other committee have thirty days to report or be discharged, the following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 3534. An act to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following report of committee was submitted:

By Mr. HELMS, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 30. A concurrent resolution expressing the sense of the Congress that the Republic of China should be admitted to multilateral economic institutions, including the International Monetary Fund and the International Bank for Reconstruct and Development.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. ROTH, from the Committee on Finance:

Patrick A. Mulloy, of Virginia, to be an Assistant Secretary of Commerce.

Thelma J. Askey, of Tennessee, to be a Member of the United States International Trade Commission for the remainder of the term expiring December 16, 2000.

Jennifer Anne Hillman, of Indiana, to be a Member of the United States International Trade Commission for the term expiring December 16, 2006.

Stephen Koplan, of Virginia, to be a Member of the United States International Trade Commission for the term expiring June 16, 2005.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ALLARD (for himself and Mr. CHAFEE):

S. 2094. A bill to amend the Fish and Wildlife Improvement Act of 1978 to enable the Secretary of the Interior to more effectively use the proceeds of sales of certain items; to the Committee on Environment and Public Works.

By Mr. CHAFEE (for himself, Mr. KEMPTHORNE, Mr. LOTT, Mr. DASCHLE, Mr. BAUCUS, Mr. BREAUX, Mr. GRAHAM, Mr. WYDEN, Mr. SMITH of New Hampshire, Mr. SARBANES, Mr. WARNER, Mr. STEVENS, Ms. SNOWE, Ms. COLLINS, Mr. BOND, Mrs. MURRAY, and Mr. DOMENICI):

S. 2095. A bill to reauthorize and amend the National Fish and Wildlife Foundation Establishment Act; to the Committee on Environment and Public Works.

By Mr. INOUYE (for himself and Mr. AKAKA):

S. 2096. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel FOILCAT; to the Committee on Commerce, Science, and Transportation.

By Mr. CAMPBELL:

S. 2097. A bill to encourage and facilitate the resolution of conflicts involving Indian tribes, and for other purposes; to the Committee on Indian Affairs.

S. 2098. A bill to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surroundings those public lands and acquired lands; to the Committee on Energy and Natural Resources.

S. 2099. A bill to provide for enhanced Federal sentencing guidelines for counterfeiting offenses, and for other purposes; to the Committee on the Judiciary.

By Mr. SPECTER (for himself, Mr. MACK, and Mr. FAIRCLOTH):

S. 2100. A bill to amend the Higher Education Act of 1965 to increase public awareness concerning crime on college and university campuses; to the Committee on Labor and Human Resources.

By Mr. BENNETT (for himself, Ms. MOSELEY-BRAUN, and Mr. SHELBY):

S. 2101. A bill to amend the Public Health Service Act to provide for research and services with respect to lupus; to the Committee on Labor and Human Resources.

By Mr. FEINGOLD (for himself, Mr. JEFFORDS, Mr. LEAHY, and Mr. WELLSTONE):

S. 2102. A bill to promote democracy and good governance in Nigeria, and for other purposes; to the Committee on Foreign Relations.

By Mrs. FEINSTEIN (for herself, Mr. HATCH, and Mrs. BOXER):

S. 2103. A bill to provide protection from personal intrusion for commercial purposes; to the Committee on the Judiciary.

By Mr. LEVIN (for himself and Mr. ABRAHAM):

S. 2104. A bill to authorize the Automobile National Heritage Area; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ALLARD (for himself and Mr. CHAFEE):

S. 2094. A bill to amend the Fish and Wildlife Improvement Act of 1978 to enable the Secretary of the Interior to more effectively use the proceeds of sales of certain items; to the Committee on Environment and Public Works.

FISH AND WILDLIFE REVENUE ENHANCEMENT ACT OF 1998

Mr. ALLARD. Mr. President, I am introducing a bill today to amend the Fish and Wildlife Improvement Act of 1978.

This bill will allow the Secretary of the Interior and the Secretary of Commerce to more effectively use proceeds from the sale of forfeited and abandoned wildlife items.

Mr. President, there is a warehouse in Commerce City, Colorado, operated by the U.S. Fish and Wildlife Service, which is filled with wildlife parts and products.

It is the National Repository for items that have been forfeited or abandoned to the U.S. Government and are being held for disposition by the Service.

Some of these items are quite unusual: mounted rhinoceros, coral jewelry, stuffed alligators, elephant foot footstools.

Some of these items are endangered or otherwise protected by law, and it is illegal to import them into the United States.

Those companies or individuals who were caught trying to do so either abandoned the items or they were forfeited to the U.S. Government through a legal process.

The Service distributes these wildlife items to museums and to schools for conservation education programs around the country.

Anyone who flew through Denver's old Stapleton Airport, for instance, might have seen a display in the main terminal reminding travelers about various laws regulating importation of wildlife and wildlife products.

A similar display is being erected at Denver International Airport.

In addition to the unusual wildlife specimens stored at the Service's Colorado Repository are some more familiar items such as leather boots, jackets, purses, watchbands, and sea shells.

These are in the possession of the Service because, in many cases, the required foreign export permits were not obtained or the items were falsely identified.

Although it is legal to possess and sell many of these wildlife items, there is, of course, a procedure for importing them. This includes obtaining the required foreign export permits prior to importation and properly declaring the items.

If these procedures are not followed correctly, then the items can be seized.

Abandonment or forfeiture actions are then initiated with title being transferred to the Government.

Many times, however, the people who try to bring them in will just abandon them to the Service.

These items are retained by the Service at the Commerce City facility until an appropriate disposition can be made.

I want to take just a moment here to point out that the Repository in question is located on the Rocky Mountain Arsenal northeast of Denver.

This inactive military facility is in the middle of a transformation from a Superfund site to the largest urban wildlife refuge in the country.

The Arsenal, which once produced nerve agents and chemical weapons, is now a haven for eagles, migratory birds, deer, and other wildlife.

I've been told that there is hope to one day introduce bison back into the 27 square mile facility.

The old Arsenal will become a new gem in the National Wildlife Refuge System, and an excellent resource for the people of Colorado.

A Service priority for disposing of these wildlife items is to utilize them in scientific and educational programs.

There are, however, many items in the Repository inventory excess to the needs of these scientific and educational programs.

Those excess items which are not given a high level of protection—those that are not endangered, or marine mammals, or migratory birds—can legally be sold on the open market.

If these surplus items were sold by the Service at an auction, they would generate proceeds which could be used to offset operational costs of the Repository, thereby allowing for a more efficient use of appropriated funds by the Service and a saving of money for the tax payers.

But there is a hitch. Current law mandates proceeds from the sale except for those that can be used for rewards, must be returned to the General Treasury.

This sounds fine, until you consider the mechanics of holding an auction.

An auctioneer charges a commission which is usually a percentage of the proceeds from a sale.

Since the Service estimates that they have about one million-dollars worth of surplus wildlife items on hand, which is a 10 year backlog, they can expect to pay the auctioneer a commission of around 15 percent or about $150,000.

Now, the budget for the Repository in Fiscal Year 1998 is $310,000 with salaries alone costing 80 percent of that number. They simply cannot pay about half of their funding towards an auctioneer's commission, and that is what they would have to do under current law.

Although a sale would bring in money, the majority of the proceeds would go to the General Treasury, and the Service would have to use money already in their operational budget to pay for the sale.

Needless to say, there are not enough funds to pay the auctioneer's commission, so the auction does not take place and the wildlife property sits and decays.

What this bill would do is allow the Fish and Wildlife Service, and the National Marine Fisheries Service under the Commerce Department, to keep the proceeds from the selling of wildlife products at an auction.

The money would be used for very specific purposes.

These purposes, except for one, are all related to the task of storing, shipping and disposing of the forfeited and abandoned items located around the country.

The other uses of the funds I will explain in just a minute.

This bill specifically says that the Services can use the proceeds of the sale for:

(1) Shipping items from one location to another;

(2) Storage and security of the items;

(3) Appraisal of the items;

(4) Sale of the items—this is necessary to pay an auctioneer's commission; and

(5) Payment of any valid liens against the objects.

As you can see, this will not allow the Services to establish a slush fund for their use.

The bill requires the money may be used only to continue paying for rewards, storage and shipping of the property, and to facilitate the disposal of the items, thereby making them available for the people of the United States.

The other use for the proceeds is very special.

The U.S. Fish and Wildlife Service administers a program that provides for the distribution of dead eagles to Native Americans so they may be used for religious and cultural purposes.

As you probably know, bald and golden eagles are highly protected and it is illegal for anyone to kill an eagle or possess an eagle carcass or its feathers.

The way the program is set up, dead eagles are sent to the National Eagle Repository, which is also located on Rocky Mountain Arsenal in Commerce City, Colorado.

There they are cataloged, processed, and shipped to Native Americans.

Even though the Repository distributes about 1,000 eagles to Native Americans each year, there is currently about a three year wait to receive an eagle carcass. This is because of the limited number of eagles being received at the Repository.

Most have been trapped, or electrocuted, or have collided with power lines and cars—they are not in very good shape.

When an eagle is received by the Repository, attempts are made to match

the type of eagle with that being requested, i.e. bald or golden, immature or mature.

Requests for individual feathers are also filled.

The Repository is so concerned about customer service that they will replace any broken or missing feathers with whole ones from another bird.

The cost to box and ship an eagle is about $50. This cost is absorbed by the Service rather than being passed on to the Native Americans.

This bill will allow the Fish and Wildlife Service to use the proceeds from an auction to assist the eagle program by paying for boxes, dry ice, and other costs associated with shipping the eagles.

For instance, some of the proceeds could also be used to purchase chest freezers to be placed in regional collection points.

This would be for short term storage of the eagles near where they are initially found.

This would hopefully increase the number of eagles being sent to the Repository and subsequently increase the number being shipped to the Native Americans, thereby reducing the waiting period to receive an eagle.

Before I close here, let me stress—the auctions will only be selling wildlife items that are legal to possess and sell in the U.S., items like boots, belts, wallets, purses, shell products, etc.

These items have a valid place on the U.S. market.

Items that have a higher scientific or educational value will be distributed to museums and schools.

No products from endangered species, eagles, marine mammals, or migratory birds will be sold.

The Fish and Wildlife Improvement Act already gives the authority to sell those items that are surplus for scientific and educational needs.

The Act is silent, however, as to what happens to the proceeds from the sale of abandoned items, so by default they go to the General Treasury.

The Services are therefore precluded from being able to utilize these funds.

If this bill is enacted, the proceeds from the sale of forfeited and abandoned items will aid in the shipping, storing, and disposing of wildlife products to scientific and educational programs and the distribution of eagles to Native Americans for religious and ceremonial purposes.

I hope this bill can be moved quickly in the Senate.

Mr. CHAFEE. Mr. President, I am pleased to cosponsor this bill with my colleague Senator ALLARD. This bill represents a move towards efficient use of government funds, and support for the valuable programs carried out with those scarce funds. The bill would initially generate approximately $1 million for the Service through the sale of items derived from fish and wildlife that are currently stored by the Service. This money would be used to cover the costs of disposing of these items—which is now a financial drain on the Service—and to fund programs that loan these items to schools and Native American groups for educational and religious purposes.

Each year, the Fish and Wildlife Service (Service) receives hundreds of thousands of items derived from fish, wildlife and plants, such as skins, furs, feathers, jewelry, etc. These items can be seized, forfeited or abandoned during enforcement of Federal wildlife laws, and they are eventually shipped to the National Wildlife Property Repository in Colorado. The Repository currently has about 150,000 items, with about 50,000 items stored elsewhere.

Under current law, the Service may dispose of fish, wildlife or other items forfeited or abandoned to the U.S. government, either by loan, gift, sale or destruction. There are certain restrictions on disposal of those items. For example, items made from threatened or endangered species, marine mammals and migratory birds cannot be sold according to the laws that apply to those particular species.

Revenue from the sale of forfeited items go to the Service for certain program operations; however, revenue from the sale of abandoned items go to the General Treasury, and are not available to the Service. More than 90 percent of the fish and wildlife items are abandoned, so that the Service would receive very little revenue from sales of these items. Indeed, under current law, the costs of selling these items would outweigh any revenue, so that the Service has no incentive to sell them.

The Service must further expend funds for the shipment, storage and disposal of the items that it acquires. In addition, the Service will make many of these items—those that cannot be sold under law—available for Native American religious and ceremonial purposes, educational purposes, and research, but must expend its own funds to do so. The Repository was appropriated $310,000 for operations last year. After overhead, only $61,000 was available for disposal of these items.

Disposal includes two programs in particular. The first, known as Cargo for Conservation, provides wildlife specimens to schools for educational programs. Under this program, the Service has distributed almost 400 educational kits to various organizations. The second program provides eagle carcasses and parts to Native Americans for religious and ceremonial purposes. Under this program, the Service has filled almost 1,500 requests for eagles, eagle parts and other raptors in 1997 alone, although there is currently a two year backlog in filling orders for some eagle carcasses.

The bill would specifically amend the Fish and Wildlife Improvement Act in two ways. First, it would authorize the deposit of proceeds from the sale of forfeited and abandoned items into Service accounts rather than into the general treasury. Second, it would expand the use of funds received through these sales to include costs incurred by shipping, storage and disposal of these items, as well as payment of any liens on these items.

I would like to note that this bill does not change existing authority with respect to items that may be sold by the Service. It does not allow the sale of items derived from threatened and endangered species, marine mammals, or migratory birds. The Service already has authority to sell certain items for which it is lawful to do so. This bill merely allows the Service to keep revenues derived from any items it sells, and to use those revenues for certain programs. This is a bill representing efficient use of government funds.

At the same time, this bill is not intended to imply that the Service should sell everything that it lawfully can in order to maximize profits. It is my understanding that the Service has no intention to sell items derived from sensitive species, including those that are candidates for listing as endangered or threatened. It is also my expectation that, in considering which items to sell, the Service would take into account the biological status of any species used for that item, and any implications that the sale may have for conservation efforts relating to that species. For example, any sale by the Service should not encourage new markets that may undermine protections elsewhere. Lastly, the Service should ensure that the sale of these items does not undermine enforcement efforts within the U.S.

In summary, I am pleased to cosponsor this bill with Senator ALLARD. Our staffs have worked closely with each other and with the Administration in drafting this legislation, and I look forward to working on this bill in the future.

By Mr. CHAFEE (for himself, Mr. KEMPTHORNE, Mr. LOTT, Mr. DASCHLE, Mr. BAUCUS, Mr. BREAUX, Mr. GRAHAM, Mr. WYDEN, Mr. SMITH of New Hampshire, Mr. SARBANES, Mr. WARNER, Mr. STEVENS, Ms. SNOWE, Ms. COLLINS, Mr. BOND, Mrs. MURRAY, and Mr. DOMENICI):

S. 2095. A bill to reauthorize and amend the National Fish and Wildlife Foundation Establishment Act; to the Committee on Environment and Public Works.

NATIONAL FISH AND WILDLIFE FOUNDATION ESTABLISHMENT ACT AMENDMENTS OF 1998

Mr. CHAFEE. Mr. President, today I introduce legislation to reauthorize the National Fish and Wildlife Foundation Establishment Act of 1984. This legislation makes important changes in the Foundation's charter, changes that I believe will allow the Foundation to build on its fine record of providing funding for conservation of our nation's fish, wildlife, and plant resources.

The National Fish and Wildlife Foundation was established in 1984, to bring together diverse groups to engage in conservation projects across America and, in some cases, around the world. Since its inception, the Foundation has made more than 2,300 grants totaling over $270 million. This is an impressive record of accomplishment. The Foundation has pioneered some notable conservation programs, including implementing the North American Waterfowl Management plan, Partners in Flight for neotropical birds, Bring Back the Natives Program, the Exxon Save the Tiger Fund, and the establishment of the Conservation Plan for Sterling Forest in New York and New Jersey, to name just a few.

Mr. President, the Foundation has funded these programs by raising private funds to match federal appropriations on at least a 2 to 1 basis. During this time of fiscal constraint this is an impressive record of leveraging federal dollars. Moreover, all of the Foundation's operating costs are raised privately, which means that federal and private dollars given for conservation is spent only on conservation projects.

I am proud to count myself as one of the ''Founding Fathers'' of the National Fish and Wildlife Foundation. In 1984, I, along with my colleagues Senators Howard Baker, George Mitchell, and JOHN BREAUX, saw the need to create a private, nonprofit group that could build public-private partnerships and consensus, where previously there had only been acrimony and, many times, contentious litigation.

The National Fish and Wildlife Foundation has more than fulfilled the hopes of its original sponsors. It has helped to bring solutions to some difficult natural resource problems and is becoming widely recognized for its innovative approach to solving environmental problems. For example, when Atlantic salmon neared extinction in the U.S. due to overharvest in Greenland, the Foundation and its partners bought Greenland salmon quotas. I and many others in Congress want the Foundation to continue its important conservation efforts. So, today I am introducing amendments to the Foundation's charter that will allow it to do just that.

Mr. President, this legislation is quite simple. It makes three key changes to current law. First, the bill would expand the Foundation's governing Board of Directors from 15 members to 25 members. This will allow a greater number of those with a strong interest in conservation to actively participate in, and contribute to, the Foundation's activities.

The bill's second key feature authorizes the Foundation to work with other agencies within the Department of the Interior and the Department of Commerce, in addition to the Fish and Wildlife Service and the National Oceanic and Atmospheric Administration. Mr. President, it is my view that the Foundation should continue to provide valuable assistance to government agencies within the Departments of the Interior and Commerce that may be faced with conservation issues. Finally, it would reauthorize appropriations to the Department of the Interior and the Department of Commerce through 2003.

Mr. President, I believe that this legislation I introduce today will produce real conservation benefits and I strongly urge my colleagues to give the bill their support.

Mr. KEMPTHORNE. Mr. President, nearly fourteen years ago President Reagan signed P.L. 98–244, an act to establish the National Fish and Wildlife Foundation as a charitable, nonprofit corporation of the United States specifically to further the conservation and management of the Nation's fish, wildlife, and plant resources. Since that time, the Foundation has funded more than 2,200 conservation projects through their partnership and challenge grant program.

In the State of Idaho alone, the Foundation has funded nearly 100 projects worth over $19,000,000. The good news is that they have done this work with only $5M of federal money. That is nearly a four to one contribution from the private sector. In addition, there have been many projects in adjacent States that benefit the Stat of Idaho.

But the Foundation has had its share of controversy. A Foundation grant to the Pacific Rivers Council may have allowed the Pacific Rivers Council to use other resources to nearly shut down the economy of several counties in the State of Idaho. A federal judge shut down all permitted activities in our national forests when the Pacific Rivers Council brought suit against the United States Forest Service and the National Marine Fisheries Service for failure to consider cumulative impacts of permitted activities under the Endangered Species Act. The two agencies could not agree on the extent and nature of the consultations, so the Federal judge shut down all activities in our national forests until they were in compliance. Even the plaintiffs in the suit were surprised by the effect of their suit. They quickly joined the effort to reverse the injunction and to have the two Federal agencies agree on a solution.

Since then the Foundation has implemented procedures into its grant contracts to prevent a recurrence of the devastating injunction triggered by the Pacific Rivers Council. The Foundation has repeatedly stated that ''it does not engage in lobbying or litigation and does not allow its grants to be used for those activities.''

And, I recognize that the Foundation has provided grant monies to support studies of grizzly bears and wolves in the Pacific Northwest. However, in my review of those grants I am pleased to say that the grants have been used to discover basic biological information about these predators. The Foundation has produced educational materials, backed research on the impacts of human activities, improved sanitation and safety will bear-proof dumpsters, supported GIS mapping of bear habitats, and brought in non-federal partners.

During the years I have been acquainted with the Foundation, I have found that they work with the entire spectrum of interests to leverage through private partners a limited amount of federal funding into significant monies for conservation.

Mr. LOTT. Mr. President, today Senator CHAFEE, chairman of the Senate Environment and Public Works Committee, has introduced legislation to reauthorize the National Fish and Wildlife Foundation. I support the Foundation and the activities it undertakes to further conservation and management of our nation's fish and wildlife resources.

Created by Congress in 1984, the Foundation has forged a strong relationship between government and corporate stakeholders, fostering cooperation and coordination. It has been successful in bringing private sector involvement, initiative and technology to bear in solving conservation problems. With this reauthorization, the Foundation's record of providing real on-the-ground conservation will continue.

Mr. President, all federal money appropriated to the National Fish and Wildlife Foundation must be matched by contributions from non-federal sources: corporations, State and local government agencies, foundations and individuals. The Foundation's operating policy is to raise a match of at least 2 to 1, to maximize leverage for our federal funds. With the financial assistance of the private sector and the technical knowledge of the States, the Foundation can be both effective and responsive to conservation needs.

All of the Foundation's projects are peer reviewed by agency staff, state resource officials, and other professionals in the natural resource field. No project is undertaken without the input and support of the local community and state interests. The Foundation has also initiated a process to solicit comments from members of Congress concerning grants in a member's district or state.

Mr. President, one of the things that distinguishes the Foundation from other conservation groups is its results in the field. The Foundation has worked with over 700 agencies, universities, businesses and conservation groups, both large and small, over the last decade. These relationships have helped the Foundation become one of the most effective conservation organizations in the nation.

In Mississippi, for example, the Foundation has supported local habitat restoration projects to help private landowners install water control structures to provide wintering habitat for migratory waterfowl. Our farmers have learned that it also benefits weed control, seed-bed preparation, prevention

of erosion—all at a lower cost. The Foundation has provided grants to assist private landowners in restoring bottomland hardwood habitats critical to migrating neotropical songbirds and other water-dependant wildlife species. These efforts are helping to maintain the state's original wetlands habitats.

Activities of the Foundation do produce real on-the-ground conservation benefits for the resources of our nation. I ask that my colleagues join me in supporting this legislation.

By Mr. INOUYE (for himself and Mr. AKAKA):

S. 2096. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Foilcat*; to the Committee on Commerce, Science, and Transportation.

CERTIFICATE OF DOCUMENTATION FOR THE VESSEL ''FOILCAT''

● Mr. INOUYE. Mr. President, I am introducing a bill today to direct that the vessel *Foilcat*, Official Number 1063892, be accorded coastwise trading privileges for a fixed duration and be issued a certificate of documentation under section 12103 of title 46, U.S. Code.

The *Foilcat* was originally constructed in Norway, in 1992, and is a hydrofoil vessel presently under renovation in a U.S. shipyard. It is 84.2 feet in length and is expected to be less than 100 U.S.C.G. registered tons.

The vessel is owned by Steven Loui of Honolulu, Hawaii. Mr. Loui would like to utilize his vessel to evaluate the use of hydrofoil technology in the establishment of a high speed ferry demonstration project. However, because the vessel was built in Norway, it did not meet the requirements for coastwise license endorsement in the United States.

The Hawaiian islands are exposed to high and rough surf and it is incumbent that we utilize high speed technologies in order to overcome the impediments of high surf and transportation distance requirements. *Foilcat* utilizes advanced hydrofoil technologies enabling the vessel to travel at high speeds while also providing safe and comfortable passenger ferry service. Should this technology as applied in passenger ferry service, prove successful, a series of these types of vessels will be built in the U.S.—using U.S. workers. Mr. Loui is planning to invest almost three times the amount of the vessel's purchase price in repairs and upgrades in a U.S. shipyard. My reflagging request would be for a limited time period, which would provide adequate time to evaluate the use of this technology in the establishment of inter and intra-island passenger ferry service.

The owner of the *Foilcat* is seeking a waiver of the existing law because he wishes to use the vessel to evaluate high speed technology in passenger ferry service. His desired intentions for the vessel's use will not adversely affect the coastwise trade in U.S. waters. If he is granted this waiver, it is his intention to comply fully with U.S. documentation and safety requirements. The purpose of the legislation I am introducing is to allow the *Foilcat* to engage in the coastwise trade and the fisheries of the United States.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2096

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITED DURATION WAIVER OF COASTWISE TRADE LAWS.

(a) IN GENERAL.—Notwithstanding sections 12106 and 12108 of title 46, United States Code, section 8 of the Passenger Vessel Act (46 U.S.C. App. 289), and section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Foilcat*, (United States Official Number 1063892).

(b) TERMINATION.—The certificate issued under subsection (a) shall be in effect for the vessel *Foilcat* for the period—

(1) beginning on the date on which the vessel is placed in service to initiate a high-speed marine ferry demonstration project; and

(2) ending on the last day of the 36th month beginning after the date on which it became effective under paragraph (1).●

By Mr. CAMPBELL:

S. 2097. A bill to encourage and facilitate the resolution of conflicts involving Indian tribes, and for other purposes; to the Committee on Indian Affairs.

INDIAN TRIBAL CONFLICT RESOLUTION, TORT CLAIMS, AND RISK MANAGEMENT ACT OF 1998

Mr. CAMPBELL. Mr. President, today I introduce the Indian Tribal Conflict Resolution, Tort Claims and Risk Management Act of 1998 to continue the discourse on matters involving Indian tribal governments such as providing a mechanism for the collection of legitimate state retail sales taxes and affording a remedy to those persons injured by the acts of tribal governments, or those acting on their behalf.

By introducing this legislation, I am hopeful that tribal leaders, concerned parties, and those affected by the actions of tribal governments can find some common ground and craft innovative solutions to these issues which I believe will continue to hamper Indian tribes unless dealt with appropriately.

It has been said that because of Indian tribal immunity from lawsuits, states have no enforcement mechanism to collect state retail taxes on transactions made to non-members. Similarly, opponents of tribal immunity charge that tribal immunity prevents injured persons from seeking legal recourse for their injuries.

The Supreme Court has held that on retail sales made to non-members, Indian tribes are under a duty to collect and remit such state taxes. The Court made it clear that there are numerous remedies available to the states in such situations including suits against tribal officials; levying the tax at the wholesale level before goods enter reservation commerce; negotiating agreements with the tribes involved; and if these prove unworkable, then seeking congressional action.

At least 18 states and numerous tribes have chosen the negotiations route to settling their differences short of litigation and acrimony. Testimony presented to the committee on March 11, 1998, revealed that there are approximately 200 intergovernmental agreements between Indian tribes and states providing for the collection and remittance by the tribes of state sales taxes on sales made to non-members.

Rather than waive the immunity of all tribes—those who have chosen to deal with the issue of taxation through agreement and those who have not—the legislation I introduce today declares the policy of the United States to be the reaffirmation of the federal obligation to protect Indian tribes, people, and trust resources and property of Indian tribes. In fulfilling that obligation, the United States should make available the framework and machinery for the amicable settlement and resolution of disputes, including tax matters, involving states and Indian tribes.

The achievement of mutual agreements is the major objective of this bill, and in addition to encouraging such agreements, this legislation provides for the creation of an ''Intergovernmental Alternative Dispute Resolution Panel'' to consider and render decisions on tax matters that cannot be resolved through negotiation.

The panel will be composed of a five member team including representatives of the Departments of Interior, Justice, and Treasury; one representative of state governments; and one representative of tribal governments. Rather than create a ''new'' mediation framework, this bill relies on the existing Federal Mediation and Conciliation Service to provide mediation services for such situations.

Title II of the bill is intended to provide a remedy in tort situations for those tribes that are not covered by the Federal Tort Claims Act, or covered by private secured liability insurance.

This title would require the Secretary of Interior to obtain or provide tort liability insurance or equivalent coverage for each Indian tribe that receives tribal priority allocations from the Bureau of Indian Affairs (BIA).

Because many, if not most, Indian tribes maintain some type of insurance coverage, the Secretary is obligated to determine the type and adequacy of coverage already provided in order to avoid duplicative or redundant coverage.

Significantly, and as is the case with insurance policies now in place for

many tribal governments, the policy of insurance must contain a provision prohibiting the carrier from raising the defense of sovereign immunity with respect to any tort action filed involving the tribe. In this way, injured persons would be afforded a remedy. Such policies would also contain a provision precluding any waiver for pre-judgment interest or punitive damages.

The Secretary would prescribe regulations governing the amount and nature of claims covered by such insurance policy, and would also set a schedule of premiums payable by any tribe that is provided insurance under this bill.

Lastly, as Indian tribes have begun to re-develop their economies and are beginning to assert their influence, issues and matters have developed that should receive the attention of a full-time, intergovernmental body to review and analyze such situations.

This legislation creates the ''Joint Tribal-Federal-State Commission on Intergovernmental Affairs'' to thoughtfully and deliberately consider matters such as law enforcement, civil and criminal jurisdiction, taxation, transportation, economic development, and related issues. Two years after enactment, the commission is required to submit a report of its findings and recommendations to the President, the Committee on Indian Affairs in the Senate, and the Committee on Resources in the House of Representatives.

Finally, let me say that I do not agree with those who suggest that the doctrine of tribal sovereign immunity is an anachronism and one no longer deserving of protection. Several of the states, as well as the federal government, have chosen to waive their immunity from suit in very limited circumstances and under strict conditions.

It is simply inaccurate to suggest that tribal governments are the last repository of immunity. Whether by limiting damage awards as some states have done, or eliminating entire classes of activities that will not trigger immunity waivers as the federal government has done in the Federal Tort Claims Act, the doctrine of immunity is alive and well in the United States.

That there are issues that need to be dealt with I agree; that the way to address these issues is through involuntary, broad-based waivers of immunity, I disagree heartily. I call on the quiet, thoughtful, and reasonable people on both sides of these issues to craft solutions that respects Indian tribal governments and yet provides reasonable solutions for legitimate problems that do exist.

Mr. President, I ask that the contents of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2097

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Indian Tribal Conflict Resolution and Tort Claims and Risk Management Act of 1998''.

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) Indian tribal sovereignty predates the formation of the United States and the United States Constitution;

(2) a unique legal and political relationship exists between the United States and Indian tribes;

(3) through treaties, statutes, Executive orders, and course of dealing, the United States has recognized tribal sovereignty and the unique relationship that the United States has with Indian tribes;

(4) Indian tribal governments exercise governmental authority and powers over persons and activities within the territory and lands under the jurisdiction of those governments;

(5) conflicts involving Indian tribal governments may necessitate the active involvement of the United States in the role of the trustee for Indian tribes;

(6) litigation involving Indian tribes, that often requires the United States to intervene as a litigant, is costly, lengthy, and contentious;

(7) for many years, alternative dispute resolution has been used successfully to resolve disputes in the private sector, and in the public sector;

(8) alternative dispute resolution—

(A) results in expedited decisionmaking; and

(B) is less costly, and less contentious than litigation;

(9) it is necessary to facilitate intergovernmental agreements between Indian tribes and States and political subdivisions thereof;

(10) Indian tribes have made significant achievements toward developing a foundation for economic self-sufficiency and self-determination, and that economic self-sufficiency and self-determination have increased opportunities for the Indian tribes and other entities and persons to interact more frequently in commerce and intergovernmental relationships;

(11) although Indian tribes have sought and secured liability insurance coverage to meet their needs, many Indian tribes are faced with significant barriers to obtaining liability insurance because of the high cost or unavailability of such coverage in the private market;

(12) as a result, Congress has extended liability coverage provided to Indian tribes to organizations to carry out activities under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.); and

(13) there is an emergent need for comprehensive and cost-efficient insurance that allows the economy of Indian tribes to continue to grow and provides compensation to persons that may suffer personal injury or loss of property.

(b) PURPOSES.—The purposes of this Act are to enable Indian tribes, tribal organizations, States and political subdivisions thereof, through viable intergovernmental agreements to—

(1) achieve intergovernmental harmony; and

(2) enhance intergovernmental commerce.

SEC. 3. DEFINITIONS.

In this Act:

(1) FEDERAL AGENCY.—The term ''Federal agency'' has the meaning given the term ''Executive agency'' in section 105 of title 5, United States Code.

(2) INDIAN COUNTRY.—The term ''Indian country'' has the meaning given that term in section 1151 of title 18, United States Code.

(3) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(4) PANEL.—The term ''Panel'' means the Intergovernmental Alternative Dispute Panel established under section 103.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Department of the Interior.

(6) STATE.—The term ''State'' means each of the 50 States and the District of Columbia.

(7) TRIBAL ORGANIZATION.—The term ''tribal organization'' has the meaning given that term in section 4(*l*) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(*l*)).

SEC. 4. DECLARED POLICY OF THE UNITED STATES.

It is the policy of the United States—

(1) to continue to preserve and protect Indian tribes, Indian people, and trust resources and property of Indian tribes; and

(2) that the settlement of issues and disputes involving Indian tribes and States or political subdivisions thereof, through negotiation and accommodation, may be advanced by making available full and adequate governmental facilities for fact finding, conciliation, mediation, and voluntary arbitration to aid and encourage Indian tribes, States, and political subdivisions thereof—

(A) to reach and maintain agreements; and

(B) to make reasonable efforts to settle differences by mutual agreement reached by such methods as may be provided for in any applicable agreement for the settlement of disputes.

TITLE I—INTERGOVERNMENTAL AGREEMENTS

SEC. 101. INTERGOVERNMENTAL COMPACT AUTHORIZATION.

(a) IN GENERAL.—The consent of the United States is granted to States and Indian tribes to enter into compacts and agreements in accordance with this title.

(b) COLLECTION OF TAXES.—Consistent with the United States Constitution, treaties, and principles of tribal and State sovereignty, and consistent with Supreme Court decisions regarding the collection and payment of certain retail taxes of a State or political subdivision thereof, the consent of the United States is hereby given to Indian tribes, tribal organizations, and States and States and Indian tribes may to enter into compacts and agreements relating to the collection and payment of certain retail taxes.

(c) FILING.—Not later than 30 days after entering into an agreement or compact under this section, a State or Indian tribe shall submit a copy of the compact or agreement to the Secretary. Upon receipt of the compact or agreement, the Secretary shall publish the compact or agreement in the Federal Register.

(d) LIMITATIONS.—

(1) IN GENERAL.—An agreement or compact under this section shall not affect any action or proceeding over which a court has assumed jurisdiction at the time that the agreement or compact is executed.

(2) PROHIBITION.—No action or proceeding described in paragraph (1) shall abate by reason of that agreement or compact unless specifically agreed upon by all parties—

(A) to the action or proceedings; and

(B) to the agreement or compact.

(e) REVOCATION.—An agreement or compact entered into under this section shall be subject to revocation by any party to that agreement or compact. That revocation shall take effect on the earlier of—

(1) the date that is 180 days after the date on which notice of revocation is provided to each party to that agreement or compact; or

(2) any date that is agreed to by all parties to that agreement or compact.

(f) REVISION OR RENEWAL.—Upon the expiration or revocation of an agreement or compact under this section, the parties to such agreement or compact may enter into a revised agreement or compact, or may renew that agreement or compact.

(g) EFFECT OF RENEWAL.—For purposes of this title, the renewal of an agreement or compact entered into under this title shall be treated as a separate agreement or compact and shall be subject to the limitations and requirements applicable to an initial agreement or compact.

(h) STATUTORY CONSTRUCTION.—Nothing in this title shall be construed to—

(1) except as expressly provided in this title, expand or diminish the jurisdiction over civil or criminal matters that may be exercised by a State or the governing body of an Indian tribe; or

(2) authorize or empower a State or tribal government, either separately or pursuant to agreement, to expand or diminish the jurisdiction exercised by the Government of the United States to—

(A) make criminal, civil, or regulatory laws; or

(B) enforce those laws in Indian country.

SEC. 102. INTERGOVERNMENTAL NEGOTIATIONS-PROCEDURES.

(a) GOOD FAITH NEGOTIATIONS.—In negotiating a claim, the parties shall conduct full and fair good faith negotiations pursuant to this title, with the objective of achieving a intergovernmental agreement or compact that meets the requirement of this title.

(b) REQUEST FOR NEGOTIATIONS.—

(1) IN GENERAL.—An Indian tribe or a State may request the Secretary to initiate negotiations to address a claim covered under this title.

(2) NOTIFICATION.—The Secretary shall notify the parties of any request made under paragraph (1).

(3) REQUESTS.—Any request made to the Secretary under this subsection shall be in writing.

(4) PARTICIPATION AS A PREREQUISITE TO INVOKE PROCEDURES UNDER SECTION 103.—

(A) IN GENERAL.—A party may not file a claim under section 103 unless that party is available for, agrees to, and participates in, negotiations under this section.

(B) NOTICE.—Upon receipt of any request made pursuant to paragraph (1), the Secretary shall, not later than 30 days after such receipt, send a notice by registered mail, return receipt requested, advising the parties that are subject to a request made under paragraph (1), that no party may file a claim under section 103 without having participated in negotiations under this section.

(c) NEGOTIATIONS.—

(1) IN GENERAL.—The Secretary shall, in a manner consistent with section 103, cause to occur and facilitate negotiations that are subject to a request under subsection (a).

(2) NON-BINDING NATURE OF NEGOTIATIONS.—Consistent with the purposes of this title, the negotiations referred to in paragraph (1) shall—

(A) be nonbinding; and

(B) be facilitated by a mediator selected in accordance with section 103.

(3) SELECTION OF MEDIATOR.—

(A) IN GENERAL.—The Secretary shall select 3 mediators from a list supplied by the Federal Mediation and Conciliation Service and submit a list of these mediators to the parties.

(B) CHALLENGES.—Each party may challenge the selection of 1 of the mediators listed by the Secretary under subparagraph (A).

(C) SELECTION.—After each party has had an opportunity to challenge the list made by the Administrator under subparagraph (B), the Secretary shall select a mediator from the list who is not subject to such a challenge.

(4) PAYMENT.—The expenses and fees of the mediator selected under paragraph (3) in facilitating negotiations under paragraph (1) shall be paid by the Secretary.

(5) REIMBURSEMENT.—If a party that files a claim under section 103 and that party is not the prevailing party in that claim, that party shall reimburse the Secretary for any fees and expenses incurred by the Secretary pursuant to paragraph (4).

(d) PROCEDURES.—Negotiations conducted under this title shall be subject to the following procedures:

(1) COMMENCEMENT.—Negotiations conducted under this section shall commence as soon as practicable after the party that receives notice under subsection (b)(4)(B) responds to the Secretary.

(2) ADDITIONAL INVESTIGATION, RESEARCH, OR NEGOTIATION.—

(A) IN GENERAL.—Each party that enters into negotiation under this section and the Secretary may agree to additional investigation, research, or analysis to facilitate a negotiated settlement.

(B) PAYMENTS.—The cost of the additional investigation, research, or analysis referred to in subparagraph (A) shall be borne by the party that undertakes that investigation, research, or analysis, or causes that investigation, research, and analysis.

(3) EXCHANGE OF RECORDS AND DOCUMENTATION.—Each party that enters into negotiations under this section shall exchange, and make available to the Secretary, any records, documents, or other information that the party may have with regard to transactions within the scope of the claims alleged that—

(A) may be relevant to resolving the negotiations; and

(B) are not privileged information under applicable law, or otherwise subject to restrictions on disclosure under applicable law.

(4) TERMINATION.—

(A) IN GENERAL.—

(i) TERMINATION.—Except as provided in clause (i) and subparagraph (B), negotiations conducted under this section shall terminate on the date that is 1 year after the date of the first meeting of the parties to conduct negotiations under this section.

(ii) MUTUAL AGREEMENT.—The period for negotiations under clause (i) may be extended if the parties and the Secretary agree that there is a reasonable likelihood that the extension may result in a negotiated settlement.

(B) MUTUAL AGREEMENT.—At any time during negotiations under this section, the parties may mutually agree to terminate the negotiations.

(C) FULFILLMENT OF CERTAIN REQUIREMENTS.—A party shall be considered to have met the requirements described in subsection (b)(4) in any case in which negotiations are terminated by mutual agreement of the parties under subparagraph (B).

(e) NEGOTIATED SETTLEMENTS.—

(1) IN GENERAL.—A negotiated settlement of a claim covered by this title reached by the parties under this section shall constitute the final, complete, and conclusive resolution of that claim.

(2) ALTERNATIVE DISPUTE RESOLUTION.—Any claim, setoff, or counterclaim (including any claim, setoff, or counterclaim described in section 103(c)) that is not subject to a negotiated settlement under this section may be pursued by the parties or the Secretary pursuant to section 103.

SEC. 103. INTERGOVERNMENTAL ALTERNATIVE DISPUTE RESOLUTION PANEL-ESTABLISHMENT.

(a) IN GENERAL.—If negotiations conducted under section 103 do not result in a settlement, the Secretary may refer the State and Indian tribe involved to the Panel established under subsection (b).

(b) AUTHORITY OF PANEL.—To the extent allowable by law, the Panel may consider and render a decision on a referred to the Panel under this section.

(c) TAXATION.—Any claim involving the legitimacy of a claim for the collection or payment of certain retail taxes owed by an Indian tribe to a State or political subdivision thereof and shall include or admit of counterclaims, setoffs, or related claims submitted or filed by the tribe in question regarding the original claim.

(d) MEMBERSHIP OF THE PANEL.—

(1) IN GENERAL.—The Panel shall consist of—

(A) 1 representative from the Department of the Interior;

(B) 1 representative from the Department of Justice;

(C) 1 representative from the Department of the Treasury;

(D) 1 representative of State governments; and

(E) 1 representative of tribal governments of Indian tribes.

(2) CHAIRPERSON.—The members of the Panel shall select a Chairperson from among the members of the Panel.

(e) FEDERAL MEDIATION CONCILIATION SERVICE.—

(1) IN GENERAL.—In a manner consistent with this title, the Panel shall consult with the Federal Mediation Conciliation Service (referred to in this subsection as the ''Service'') established under section 202 of the National Labor Relations Act (29 U.S.C. 172).

(2) DUTIES OF SERVICE.—The Service shall, upon request of the Panel and in a manner consistent with applicable law—

(A) provide services to the Panel to aid in resolving disputes brought before the Panel;

(B) furnish employees to act as neutrals (as that term is defined in section 571(9) of title 5, United States Code) in resolving the disputes brought before the Panel; and

(C) consult with the Administrative Conference of the United States to maintain a roster of neutrals and arbitrators.

SEC. 104. JUDICIAL ENFORCEMENT.

(a) INTERGOVERNMENTAL AGREEMENTS.—

(1) IN GENERAL.—

(A) JURISDICTION.—Except as provided in subparagraph (B), the district courts of the United States shall have original jurisdiction with respect to—

(i) any civil action, claim, counterclaim, or setoff, brought by any party to a agreement or compact entered into in accordance with this title to secure equitable relief, including injunctive and declaratory relief; and

(ii) the enforcement of any agreement or compact.

(B) DAMAGES.—No action to recover damages arising out of or in connection with an agreement or compact entered into under this section may be brought, except as specifically provided for in that agreement or compact.

(2) CONSENT TO SUIT.—Each compact or agreement entered into under this title shall specify that the partner consent to litigation to enforce the agreement, and to the extent necessary to enforce that agreement, each party waives any defense of sovereign immunity.

SEC. 105. JOINT TRIBAL-FEDERAL-STATE COMMISSION ON INTERGOVERNMENTAL AFFAIRS.

(a) IN GENERAL.—The Secretary shall establish a tribal, Federal, and State commission

(to be known as the ''Tribal-Federal-State Commission'') (referred to in this section as the ''Commission'').

(b) MEMBERS.—

(1) IN GENERAL.—The Commission shall be comprised of representatives of Indian tribes, the States, and the Federal Government.

(2) DUTIES OF THE COMMISSION.—The Commission shall advise the Secretary concerning issues of intergovernmental concern with respect to Indian tribes, States, and the Federal Government, including—

(A) law enforcement;

(B) civil and criminal jurisdiction;

(C) taxation;

(D) transportation;

(E) economy development; and

(F) other matters related to a matter described in subparagraph (A), (B), (C), (D), or (E).

(3) PERIOD OF APPOINTMENT.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(4) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(5) MEETINGS.—The Commission shall meet at the call of the Chairman.

(6) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(7) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a Chairman and Vice Chairman from among its members.

(8) POWERS.—

(A) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this section.

(B) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act section. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(C) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(D) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(9) COMMISSION PERSONNEL MATTERS.—

(A) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(B) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, and annually thereafter, the Commission shall prepare and submit to the President, the Committee on Indian Affairs of the Senate, and the Committee on Resources of the House of Representatives a report on the implementation of this title that includes any recommendations that the Commission determines to be appropriate.

SEC. 106. FUNDING AND IMPLEMENTATION.

(a) IN GENERAL.—With respect to any agreement or compact between an Indian tribe and a State, the United States, upon agreement of the parties and the Secretary, may provide financial assistance to such parties for costs of personnel or administrative expenses in an amount not to exceed 100 percent of the costs incurred by the parties as a consequence of that agreement or compact, including any indirect costs of administration that are attributable to the services performed under the agreement or compact.

(b) ASSISTANCE.—The head of each Federal agency may, to the extent allowable by law and subject to the availability of appropriations, provide technical assistance, material support, and personnel to assist States and Indian tribes in the implementation of the agreements or compacts entered into under this title.

TITLE II—TORT LIABILITY INSURANCE

SEC. 201. LIABILITY INSURANCE, WAIVER OF DEFENSE.

(a) TRIBAL PRIORITY ALLOCATION DEFINED.—The term ''tribal priority allocation'' means an allocation to a tribal priority account of an Indian tribe by the Bureau of Indian Affairs to allow that Indian tribe to establish program priorities and funding levels.

(b) INSURANCE.—

(1) IN GENERAL.—Except as provided in paragraph (3), not later than 2 years after the date of enactment of this Act, the Secretary shall obtain or provide tort liability insurance or equivalent coverage for each Indian tribe that receives a tribal priority allocation from amounts made available to the Bureau of Indian Affairs for the operation of Indian programs.

(2) COST-EFFECTIVENESS.—In carrying out paragraph (1), the Secretary shall—

(A) ensure that the insurance or equivalent coverage is provided in the most cost-effective manner available; and

(B) for each Indian tribe referred to in paragraph (1), take into consideration the extent to which the tort liability is covered—

(i) by privately secured liability insurance; or

(ii) chapter 171 of title 28, United States Code (commonly referred to as the ''Federal Tort Claims Act'') by reason of an activity of the Indian tribe in which the Indian tribe is acting in the same capacity as an agency of the United States.

(3) LIMITATION.—If the Secretary determines that an Indian tribe, described in paragraph (1), has obtained liability insurance in an amount and of the type that the Secretary determines to be appropriate by the date specified in paragraph (1), the Secretary shall not be required to provide additional coverage for that Indian tribe.

(c) REQUIREMENTS.—A policy of insurance or a document for equivalent coverage under subsection (a)(1) shall—

(1) contain a provision that the insurance carrier shall waive any right to raise as a defense the sovereign immunity of an Indian tribe with respect to an action involving tort liability of that Indian tribe, but only with respect to tort liability claims of an amount and nature covered under the insurance policy or equivalent coverage offered by the insurance carrier; and

(2) not waive or otherwise limit the sovereign immunity of the Indian tribe outside or beyond the coverage or limits of the policy of insurance or equivalent coverage.

(d) PROHIBITION.—No waiver of the sovereign immunity of a Indian tribe under this section shall include a waiver of any potential liability for—

(1) interest that may be payable before judgment; or

(2) exemplary or punitive damages.

(e) PREFERENCE.—In obtaining or providing tort liability insurance coverage for Indian tribes under this section, the Secretary shall, to the greatest extent practicable, give preference to coverage underwritten by Indian-owned economic enterprises, as defined in section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452), except that for the purposes of this subsection, those enterprises may include non-profit corporations.

(f) REGULATIONS.—To carry out this title, the Secretary shall promulgate regulations that—

(1) provide for the amount and nature of claims to be covered by an insurance policy or equivalent coverage provided to an Indian tribe under this title; and

(2) establish a schedule of premiums that may be assessed against any Indian tribe that is provided liability insurance under this title.

SEC. 202. STUDY AND REPORT TO CONGRESS

(a) IN GENERAL.—

(1) STUDY.—In order to minimize and, if possible, eliminate redundant or duplicative liability insurance coverage and to ensure that the provision of insurance of equivalent coverage under this title is cost-effective, before carrying out the requirements of section 201, the Secretary shall conduct a comprehensive survey of the degree, type, and adequacy of liability insurance coverage of Indian tribes at the time of the study.

(2) CONTENTS OF STUDY.—The study conducted under this subsection shall include—

(A) an analysis of loss data;

(B) risk assessments;

(C) projected exposure to liability, and related matters; and

(D) the category of risk and coverage involved which may include—

(i) general liability;

(ii) automobile liability;

(iii) the liability of officials of the Indian tribe;

(iv) law enforcement liability;

(v) workers' compensation; and

(vi) other types of liability contingencies.

(3) ASSESSMENT OF COVERAGE BY CATEGORIES OF RISK.—For each Indian tribe described in section 201(a)(1), for each category of risk identified under paragraph (2), the Secretary, in conducting the study, shall determine whether insurance coverage other than coverage to be provided under this title or coverage under chapter 171 of title 28, United States Code, applies to that Indian tribe for that activity.

(b) REPORT.—Not later than 3 years after the date of enactment of this Act, and annually thereafter, the Secretary shall submit a report to Congress concerning the implementation of this title, that contains any legislative recommendations that the Secretary determines to be appropriate to improve the provision of insurance of equivalent coverage to Indian tribes under this title, or otherwise achieves the goals and objectives of this title.

By Mr. CAMPBELL:

S. 2098. A bill to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired

lands; to the Committee on Energy and Natural Resources.

AMERICAN LAND SOVEREIGNTY PROTECTION ACT

Mr. CAMPBELL. Mr. President, as a strong supporter of American public lands and private property rights, I am concerned about the setting aside of public lands by the federal government for international agreements and oversight. The absence of congressional oversight in such programs as the United Nations Biosphere Reserve is of special concern to me. The United Nations has designated 47 ''Biosphere Reserves'' in the United States which contain a total area greater than the size of my home state of Colorado. That is why today I introduce companion legislation to H.R. 901, the American Land Sovereignty Protection Act, introduced by Representative DON YOUNG, to preserve American sovereignty and halt the extension of the executive branch into congressional constitutional authority.

We are facing a threat to our sovereignty by the creation of these land reserves in our public lands. I also believe the rights of private landowners must be protected if these international land designations are made. Even more disturbing is the fact the executive branch elected to be a party to this ''Biosphere Reserve'' program without the approval of Congress or the American people. The absence of congressional oversight in this area is a serious concern.

In fact most of these international land reserves have been created with minimal, if any, congressional input or oversight or public consultation. Congress must protect individual property owners, local communities, and State sovereignty which may be adversely impacted economically by any such international agreements.

The current system for implementing international land reserves diminishes the power and sovereignty of the Congress to exercise its constitutional power to make laws that govern lands belonging to the United States. The executive branch may be indirectly agreeing to terms of international treaties, such as the Convention of Biodiversity, to which the United States is not a party, and one which our country has refused to ratify.

A ''Biosphere Reserve'' is a federally-zoned and coordinated region that could prohibit certain uses of private lands outside of the designated international area. The executive branch is agreeing to manage the designated area in accordance with an underlying agreement which may have implications on non-federal land outside the affected area. When residents of Arkansas discovered a plan by the United Nations and the administration to advance a proposed ''Ozark Highland Man and Biosphere Reserve'' without public input, the plan was withdrawn in the face of public pressure. This type of stealth tactic to accommodate international interests does not serve the needs and desires of the American people. Rather, it is an encroachment by the Executive branch on congressional authority.

As policymaking authority is further centralized at the executive branch level, the role of ordinary citizens in the making of this policy through their elected representatives is diminished. The administration has allowed some of America's most symbolic monuments of freedom, such as the Statue of Liberty and Independence Hall to be listed as World Heritage Sites. Furthermore the United Nations has listed national parks including Yellowstone National Park—our nation's first national park.

Federal legislation is needed to require the specific approval of Congress before any area within the borders of United States is made part of an international land reserve. My bill reasserts Congress' constitutional role in the creation of rules and regulations governing lands belonging to the United States and its people.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2098

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''American Land Sovereignty Protection Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) The power to dispose of and make all needful rules and regulations governing lands belonging to the United States is vested in the Congress under article IV, section 3, of the Constitution.

(2) Some Federal land designations made pursuant to international agreements concern land use policies and regulations for lands belonging to the United States which under article IV, section 3, of the Constitution can only be implemented through laws enacted by the Congress.

(3) Some international land designations, such as those under the United States Biosphere Reserve Program and the Man and Biosphere Program of the United Nations Scientific, Educational, and Cultural Organization, operate under independent national committees, such as the United States National Man and Biosphere Committee, which have no legislative directives or authorization from the Congress.

(4) Actions by the United States in making such designations may affect the use and value of nearby or intermixed non-Federal lands.

(5) The sovereignty of the States is a critical component of our Federal system of government and a bulwark against the unwise concentration of power.

(6) Private property rights are essential for the protection of freedom.

(7) Actions by the United States to designate lands belonging to the United States pursuant to international agreements in some cases conflict with congressional constitutional responsibilities and State sovereign capabilities.

(8) Actions by the President in applying certain international agreements to lands owned by the United States diminishes the authority of the Congress to make rules and regulations respecting these lands.

(b) PURPOSE.—The purposes of this Act are the following:

(1) To reaffirm the power of the Congress under article IV, section 3, of the Constitution over international agreements which concern disposal, management, and use of lands belonging to the United States.

(2) To protect State powers not reserved to the Federal Government under the Constitution from Federal actions designating lands pursuant to international agreements.

(3) To ensure that no United States citizen suffers any diminishment or loss of individual rights as a result of Federal actions designating lands pursuant to international agreements for purposes of imposing restrictions on use of those lands.

(4) To protect private interests in real property from diminishment as a result of Federal actions designating lands pursuant to international agreements.

(5) To provide a process under which the United States may, when desirable, designate lands pursuant to international agreements.

SEC. 3. CLARIFICATION OF CONGRESSIONAL ROLE IN WORLD HERITAGE SITE LISTING.

Section 401 of the National Historic Preservation Act Amendments of 1980 (Public Law 96–515; 94 Stat. 2987) is amended—

(1) in subsection (a) in the first sentence, by—

(A) striking ''The Secretary'' and inserting ''Subject to subsections (b), (c), (d), and (e), the Secretary''; and

(B) inserting ''(in this section referred to as the 'Convention')'' after ''1973''; and

(2) by adding at the end the following new subsections:

''(d)(1) The Secretary of the Interior may not nominate any lands owned by the United States for inclusion on the World Heritage List pursuant to the Convention, unless—

''(A) the Secretary finds with reasonable basis that commercially viable uses of the nominated lands, and commercially viable uses of other lands located within 10 miles of the nominated lands, in existence on the date of the nomination will not be adversely affected by inclusion of the lands on the World Heritage List, and publishes that finding;

''(B) the Secretary has submitted to the Congress a report describing—

''(i) natural resources associated with the lands referred to in subparagraph (A); and

''(ii) the impacts that inclusion of the nominated lands on the World Heritage List would have on existing and future uses of the nominated lands or other lands located within 10 miles of the nominated lands; and

''(C) the nomination is specifically authorized by a law enacted after the date of enactment of the American Land Sovereignty Protection Act and after the date of publication of a finding under subparagraph (A) for the nomination.

''(2) The President may submit to the Speaker of the House of Representatives and the President of the Senate a proposal for legislation authorizing such a nomination after publication of a finding under paragraph (1)(A) for the nomination.

''(e) The Secretary of the Interior shall object to the inclusion of any property in the United States on the list of World Heritage in Danger established under Article 11.4 of the Convention, unless—

''(1) the Secretary has submitted to the Speaker of the House of Representatives and the President of the Senate a report describing—

''(A) the necessity for including that property on the list;

''(B) the natural resources associated with the property; and

''(C) the impacts that inclusion of the property on the list would have on existing and future uses of the property and other property located within 10 miles of the property proposed for inclusion; and

''(2) the Secretary is specifically authorized to assent to the inclusion of the property on the list, by a joint resolution of the Congress after the date of submittal of the report required by paragraph (1).''.

''(f) The Secretary of the Interior shall submit an annual report on each World Heritage Site within the United States to the Chairman and Ranking Minority member of the Committee on Resources of the House of Representatives and of the Committee on Energy and Natural Resources of the Senate, that contains for the year covered by the report the following information for the site:

''(1) An accounting of all money expended to manage the site.

''(2) A summary of Federal full time equivalent hours related to management of the site.

''(3) A list and explanation of all nongovernmental organizations that contributed to the management of the site.

''(4) A summary and account of the disposition of complaints received by the Secretary related to management of the site.''.

SEC. 4. PROHIBITION AND TERMINATION OF UNAUTHORIZED UNITED NATIONS BIOSPHERE RESERVES.

Title IV of the National Historic Preservation Act Amendments of 1980 (16 U.S.C. 470a–1 et seq.) is amended by adding at the end the following new section:

''SEC. 403. (a) No Federal official may nominate any lands in the United States for designation as a Biosphere Reserve under the Man and Biosphere Program of the United Nations Educational, Scientific, and Cultural Organization.

''(b) Any designation on or before the date of enactment of the American Land Sovereignty Protection Act of an area in the United States as a Biosphere Reserve under the Man and Biosphere Program of the United Nations Educational, Scientific, and Cultural Organization shall not have, and shall not be given, any force or effect, unless the Biosphere Reserve—

''(1) is specifically authorized by a law enacted after that date of enactment and before December 31, 2000;

''(2) consists solely of lands that on that date of enactment are owned by the United States; and

''(3) is subject to a management plan that specifically ensures that the use of intermixed or adjacent non-Federal property is not limited or restricted as a result of that designation.

''(c) The Secretary of State shall submit an annual report on each Biosphere Reserve within the United States to the Chairman and Ranking Minority member of the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, that contains for the year covered by the report the following information for the reserve:

''(1) An accounting of all money expended to manage the reserve.

''(2) A summary of Federal full time equivalent hours related to management of the reserve.

''(3) A list and explanation of all nongovernmental organizations that contributed to the management of the reserve.

''(4) A summary and account of the disposition of the complaints received by the Secretary related to management of the reserve.''.

SEC. 5. INTERNATIONAL AGREEMENTS IN GENERAL.

Title IV of the National Historic Preservation Act Amendments of 1980 (16 U.S.C. 470a–1 et seq.) is further amended by adding at the end the following new section:

''SEC. 404. (a) No Federal official may nominate, classify, or designate any lands owned by the United States and located within the United States for a special, including commercial, or restricted use under any international agreement unless such nomination, classification, or designation is specifically authorized by law. The President may from time to time submit to the Speaker of the House of Representatives and the President of the Senate proposals for legislation authorizing such a nomination, classification, or designation.

''(b) A nomination, classification, or designation, under any international agreement, of lands owned by a State or local government shall have no force or effect unless the nomination, classification, or designation is specifically authorized by a law enacted by the State or local government, respectively.

''(c) A nomination, classification, or designation, under any international agreement, of privately owned lands shall have no force or effect without the written consent of the owner of the lands.

''(d) This section shall not apply to—

''(1) agreements established under section 16(a) of the North American Wetlands Conservation Act (16 U.S.C. 4413); and

''(2) conventions referred to in section 3(h)(3) of the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 712(2)).

''(e) In this section, the term 'international agreement' means any treaty, compact, executive agreement, convention, bilateral agreement, or multilateral agreement between the United States or any agency of the United States and any foreign entity or agency of any foreign entity, having a primary purpose of conserving, preserving, or protecting the terrestrial or marine environment, flora, or fauna.''.

SEC. 6. CLERICAL AMENDMENT.

Section 401(b) of the National Historic Preservation Act Amendments of 1980 (16 U.S.C. 470a–1(b)) is amended by striking ''Committee on Natural Resources'' and inserting ''Committee on Resources''.

By Mr. CAMPBELL:

S. 2099. A bill to provide for enhanced Federal sentencing guidelines for counterfeiting offenses, and for other purposes; to the Committee on the Judiciary.

COUNTERFEITING SENTENCING ENHANCEMENT ACT OF 1998

Mr. CAMPBELL. Mr. President, today I introduce the Counterfeiting Sentencing Enhancement Act of 1998. My bill would tighten the sentencing guidelines' base offense level in recognition of the fact that advances in computer and printing technology have fundamentally changed the nature of counterfeiting. This bill would bring our nation's counterfeiting laws out of Gutenberg's printing press era and into the modern computer age.

Counterfeiting of our nation's currency is a serious and growing problem. Incidents of computer generated counterfeiting have increased dramatically over the last three years. In 1995 only one half of one percent of counterfeit U.S. currency passed were computer generated.

Today, just three short years later, computer generated counterfeits account for approximately 43 percent of the counterfeits passed.

Traditional counterfeiters use offset printing production methods that require specialized equipment including printing presses, engraved printing press plates and green ink. These counterfeiters encounter a cumbersome process that is messy, is harder to conceal, and requires them to produce in large batches.

However, a rapidly growing number of today's counterfeiters are using personal computers, scanners, digital imaging software, full color copiers, and laser and inkjet printers. They can also use the Internet to instantaneously transmit the computer images needed for counterfeiting. This technology, which is readily available and increasingly affordable, enables criminals to produce high-quality counterfeit currency in small batches and at a low cost. It is this ability for counterfeiters to easily produce in small batches that has rendered our sentencing guidelines outdated and less effective as a deterrent.

Our sentencing guidelines under current law are based in a world where the realities of offset printing required counterfeiters to produce in rather large batches. That reality no longer exists. Basically, the more counterfeit currency a counterfeiter got caught with, the stiffer the sentence. Using computer technology, today's counterfeiters can simply print out smaller batches of counterfeit currency whenever they want to. This allows these criminals to effectively fly just under the radar of our sentencing guideline thresholds.

The administration recently acknowledged the extent of the problem. In a March 5, 1998, letter to the U.S. Sentencing Commission, Treasury Secretary Robert E. Rubin wrote that ''increases in computer counterfeiting cases represent not only a threat to our law enforcement interests, but also seriously threaten the integrity of our U.S. currency. Maintaining the stability and integrity of U.S. currency is essential to preserving the benefits derived from the dollar's status as a world currency.''

In response to these enhanced counterfeiting techniques, the Department of Treasury has been redesigning our nation's currency to make it harder to counterfeit. In addition the Secret Service has stepped up its battle against counterfeiters, both at home and abroad. But more needs to be done. This bill is another important step to toughen the penalties for counterfeiting.

Specifically, my bill strengthens the sentencing guidelines so that increases are based on offense levels determined by the amount of counterfeit bills produced and a point system based on the offender's prior criminal history. Under current law, the base offense begins with level 9 for convictions involving $2,000 in counterfeit currency or less. Increases in this level occur according to the amount of counterfeit bills over $2,000. Thus a defendant's guideline

range in counterfeiting cases depends largely on the amount of counterfeit inventory seized when the operation is shut down.

Increases in sentencing are also determined by the prior criminal history of the offender. Points are added for such things as: prior imprisonment; offenses committed while on probation, parole, or supervised release; offenses committed less than two years from prior release; and other misdemeanor and petty offenses.

Under current law at base offense level 9, seven points are needed for the imposition of a prison sentence of 12 to 18 months. Without these points for prior criminal history many offenders simply are being released on probation. I believe these sentencing guidelines are too lenient and fail to address the growing problem of counterfeiting.

Therefore, my bill increases the base offense level in section 2B5.1 of the Federal Sentencing Guidelines by not less than two levels to level 11. Under my bill, an offender would need only four points to receive the same 12 to 18 month sentence which previously required seven points. This relates to all counterfeiting offenses to address the overall harm counterfeiting can have on the integrity of U.S. currency.

Second, my bill adds a sentencing enhancement of not less than two levels for counterfeiting offenses that involve the use of computer printer or a color photocopying machine. This would place this new class of computer counterfeiters at an offense level of 13. Here, an offender would need zero points to receive the same 12 to 18 month sentence. The increase in my bill would provide for actual prison sentences in many of the cases where previous offenders were only receiving probation. I believe this legislation clearly addresses our growing problem with counterfeiters by imposing stricter sentencing penalties.

Mr. President, counterfeiting threatens the very underpinnings of our economy, the American people's confidence in the integrity and value of our nation's currency, the U.S. dollar. The ''Counterfeiting Sentencing Enhancement Act of 1998'' will send a clear message to criminals who are even thinking about counterfeiting. I urge my colleagues to join in support of this legislation.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2099

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SENTENCING GUIDELINES FOR COUNTERFEITING OFFENSES.

The United States Sentencing Commission shall amend the Federal sentencing guidelines to provide—

(1) a sentencing enhancement of not less than 2 levels, with respect to the base level for offenses involving counterfeit bearer obligations of the United States, as described in section 2B5.1 of the Federal sentencing guidelines; and

(2) an additional sentencing enhancement of not less than 2 levels, with respect to any offense described in paragraph (1) that involves the use of a computer printer or a color photocopying machine.

By Mr. SPECTER (for himself, Mr. MACK, and Mr. FAIRCLOTH):

S. 2100. A bill to amend the Higher Education Act of 1965 to increase public awareness concerning crime on college and university campuses; to the Committee on Labor and Human Resources.

CAMPUS CRIME DISCLOSURE ACT OF 1998

Mr. SPECTER. Mr. President, today I introduce the Campus Crime Disclosure Act of 1998. My legislation amends the Crime Awareness and Campus Security Act of 1990,

Educational institutions were once safe havens where we sent our children. Unfortunately, today we are all aware of the increase in violence that has reached as far down as our elementary schools to our youngest and most innocent victims. I would note that just recently, in the rural Pennsylvania community of Edinboro, a young teenager lamentably shot a teacher to death at an 8th grade graduation dance and wounded other students. While there is much that Congress can do to reduce violence in our society and across all levels of educational institutions, my legislation is focused on our national commitment to improving public safety on college and university campuses, where young adults are often away from their homes for the first time and living in unfamiliar surroundings.

The legislation I am introducing today builds upon the fine work of my distinguished colleagues, Representative GOODLING of Pennsylvania and Senator JEFFORDS of Vermont, who as chairmen of the authorizing committees having jurisdiction over higher education, have included campus crime amendments in the legislation reauthorizing the Higher Education Act. However, I believe that their amendments to the 1990 Campus Security Act do not go far enough. Accordingly, my legislation includes provisions which are not included in the reauthorization bill and are necessary to bring schools into full compliance with the law, such as a more detailed definition of ''campus'' and new civil penalties.

Based on my experience as District Attorney of Philadelphia, and my frequent involvement with educators and college students, I know that safety on campuses is a very serious issue. I want to recognize one family in particular for helping keep me and my colleagues informed on the important issue of campus crime, Howard and Connie Clery, and their son Ben, of King of Prussia, Pennsylvania for their continued work on campus security policy. As my colleagues may know, in 1988, the Clerys' daughter, Jeanne, was beaten, raped and murdered by a fellow student in her campus dormitory room at Lehigh University. Soon after the tragedy, Howard and Connie began to work on getting campus safety laws passed in the States and the U.S. Congress. In fact, the campus security law enacted in 1990 is often referred to as the ''Clery Bill.'' The Clerys founded Security on Campus, Inc., which serves as a watchdog of campus crime policies and procedures administered by our nation's colleges and universities.

Based on continued conversations with the Clerys, it became apparent to me that there was a critical need for Congressional oversight of how the Department of Education has implemented the 1990 Act and whether the Department's financial resources are adequate for enforcement of the reporting requirements. On the fifth of March of this year, I held a hearing on security on campus as chairman of the Senate Labor, Health and Human Services and Education Appropriations Subcommittee, to examine the Department of Education's enforcement of campus crime reporting requirements. The Assistant Secretary for Postsecondary Education for the U.S. Department of Education, David Longanecker, testified that: ''Generally the issue of campus is one of the foremost difficult areas that we have found campuses are having a difficult time with, and it is a particular issue for an urban institution.'' Secretary Longanecker went on to say that sidewalks and public lands are excluded from the Department's current definition of campus. Further, testimony at the hearing showed that buildings which are used for commercial purposes where other parts are used for educational purposes do not fall within the Department's interpretation of ''campus,'' which, my own personal view, is an incorrect one. As one of the authors of the 1990 law, I believe that the omission of such information violates the spirit of the law and is a disservice to parents and students, especially for parents who send their children to college in urban settings, where commercial property such as food shops and retail stores and city streets thread through the entire campus. I believe it is preposterous to suggest that if a student fell victim to a crime say on a sidewalk which he or she was using to get to class would go unreported.

The Campus Crime Disclosure Act of 1998 clarifies the law as to what constitutes a college or university campus. From now on, institutions would have to report to parents, students, and other members of the general public a more precise assessment of the criminal activity on campus. Specifically, a campus will be interpreted to mean: any building or property owned and controlled by the institution or owned by a student organization recognized by the institution, any public property such as sidewalks, streets, parking facilities, and other thoroughfares that provide access to the facilities of the institution, and any property owned or

controlled by the institution that is not in close proximity to the campus must still be reported on. The bill also makes clear that all dormitories and residential facilities, whether on or off-campus, which are owned or operated by the institution, fall under the definition of campus.

My legislation gives the Secretary of Education stronger enforcement authority. Should an institution fail to report crime data, the Department of Education can fine that institution up to $25,000. According to a study conducted by the General Accounting Office, 63 institutions of higher education were in violation of the Crime Awareness and Campus Security Act of 1990. Yet, the Department of Education did not take any punitive action against these institutions. The inclusion of fines will provide the Department with the necessary tool to ensure that all schools fulfill the intention of the law.

I encourage my colleagues to join me in support of the Campus Crime Disclosure Act of 1998 to enhance security on campus. The bill is urgently needed to steer the U.S. Department of Education in the right direction as it monitors crime on America's college campuses. Quite simply, everyone benefits from clear and accurate reporting of the risks facing college students.

Mr. President, I ask unanimous consent that a copy of the text of the bill be printed in the RECORD as well as a section-by-section analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2100

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Campus Crime Disclosure Act of 1998''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) According to the General Accounting Office, 63 institutions of higher education were in violation of the amendments made by the Crime Awareness and Campus Security Act of 1990 since the enactment of such Act in 1990. The Department of Education has not taken punitive action against these institutions.

(2) The Department of Education's interpretation of the statutory definition of campus has enabled institutions of higher education to underreport the instances of crimes committed against students.

(3) In order to improve public awareness of crimes committed on college and university campuses, it is essential that Congress act to clarify existing law and to discourage underreporting of offenses covered by the amendments made by the Crime Awareness and Campus Security Act of 1990.

SEC. 3. ADDITIONAL CRIME CATEGORIES.

(a) IN GENERAL.—Section 485(f)(1) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)(1)) is amended—

(1) by amending subparagraph (F) to read as follows:

''(F) Statistics concerning the occurrence on campus, during the most recent calendar year, and during the 2 preceding calendar years for which data are available, of criminal offenses reported to campus security authorities or local police agencies, and of referrals of persons for campus disciplinary action, for the following:

''(i) Murder.

''(ii) Sex offenses, forcible or nonforcible.

''(iii) Robbery.

''(iv) Aggravated assault.

''(v) Burglary.

''(vi) Motor vehicle theft.

''(vii) Manslaughter.

''(viii) Larceny.

''(ix) Arson.

''(x) Liquor law violations, drug-related violations, and weapons violations.'';

(2) by striking subparagraph (H); and

(3) by redesignating subparagraph (I) as subparagraph (H).

(b) CONFORMING AMENDMENTS.—Section 485(f) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)) is amended—

(1) in the matter preceding subparagraph (A) of paragraph (4), by striking ''paragraphs (1)(F) and (1)(H)'' and inserting ''paragraph (1)(F)''; and

(2) in paragraph (6), by striking ''paragraphs (1)(F) and (1)(H)'' and inserting ''paragraph (1)(F)''.

SEC. 4. TIMELY MANNER.

Section 485(f)(3) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)(3)) is amended by adding at the end the following: ''Such reports shall be readily available to students and employees through various mediums such as resident advisors, electronic mail, school newspapers, and announcement postings throughout the campus.''.

SEC. 5. DEFINITION OF CAMPUS.

Subparagraph (A) of section 485(f)(5) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)(5)) is amended to read as follows: ''(A) For purposes of this section the term 'campus' means—

''(i) any building or property owned or controlled by an institution of higher education within the same reasonably contiguous geographic area of the institution, including a building or property owned by the institution, but controlled by another person, such as a food or other retail vendor;

''(ii) any building or property owned or controlled by a student organization recognized by the institution;

''(iii) all public property that is within the same reasonably contiguous geographic area of the institution, such as a sidewalk, a street, other thoroughfare, or parking facility, that provides immediate access to facilities owned or controlled by the institution;

''(iv) any building or property owned, controlled, or used by an institution of higher education in direct support of, or related to the institution's educational purposes, that is used by students, and that is not within the same reasonably contiguous geographic area of the institution; and

''(v) all dormitories or other student residential facilities owned or controlled by the institution.''.

SEC. 6. REPORTING REQUIREMENTS.

Section 485(f) of the Higher Education Act of 1965 (20 U.S.C. 1092) is amended further by adding at the end the following:

''(8)(A) The Secretary shall report to the appropriate committees of Congress each institution of higher education that the Secretary determines is not in compliance with the reporting requirements of this subsection.

''(B) The Secretary shall provide to an institution of higher education that the Secretary determines is having difficulty, or is not in compliance, with the reporting requirements of this subsection—

''(i) data and analysis regarding successful practices employed by institutions of higher education to reduce campus crime; and

''(ii) technical assistance.

''(9) For purposes of reporting the statistics described in paragraph (1)(F), an institution of higher education shall distinguish, by means of a separate category, any criminal offenses, and any referrals for campus disciplinary actions, that occur—

''(A) on publicly owned sidewalks, streets, or other thoroughfares, or in parking facilities, that provide immediate access to facilities owned by the institution and are within the same reasonably contiguous geographic area of the institution; and

''(B) in dormitories or other residential facilities for students, or in other facilities affiliated with the institution.''.

SEC. 7. FINES.

Section 485(f) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)) is amended further by adding after paragraph (9) (as added by section 6) the following:

''(10)(A) Upon determination, after reasonable notice and opportunity for a hearing, that an institution of higher education—

''(i) has violated or failed to carry out any provision of this subsection or any regulation prescribed under this subsection; or

''(ii) has engaged in substantial misrepresentation of the nature of the institution's activities under this subsection,

the Secretary shall impose a civil penalty upon the institution of not to exceed $25,000 for each violation, failure, or misrepresentation.

''(B) Any civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the institution of higher education subject to the determination, and the gravity of the violation, failure, or misrepresentation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the institution charged.''.

THE CAMPUS CRIME DISCLOSURE ACT OF 1998—SUMMARY

The Campus Crime Disclosure Act of 1998 amends the Higher Education Act of 1965 to increase public awareness concerning crime on college and university campuses.

Section 1. Title: ''Campus Crime Disclosure Act of 1998.''

Section 2. Findings.

Section 3. Additional Crime Categories.

Adds reporting requirements for offenses such as manslaughter, larceny, arson, and for arrests or persons referred for campus disciplinary action for liquor law violations, drug-related violations, and weapons violations.

Section 4. Definition of Campus.

This section responds to the Department of Education's interpretation of the 1990 campus crime reporting law by modifying the definition of campus to include: any building or property owned and controlled by the institution or by a student organization recognized by the institution within the contiguous area of the institution, any public property such as sidewalks, streets, parking facilities, and other thoroughfares that provide access to the facilities of the institution, any building or property owned or controlled by the institution that is not within the contiguous area but used for educational purposes. The bill also makes clear that all dormitories and residential facilities (on or off-campus) which are owned or operated by the institution, fall under the definition of campus.

Section 5. Reporting Requirements.

Adds three additional reporting requirements: (1) the Secretary of Education must report back to Congress when schools are

found in noncompliance, (2) the Secretary shall provide technical assistance to schools concerning compliance with reporting requirements and the implementation of campus security procedures, and (3) requires institutions to include in their reported statistics: crimes committed on public property such as streets and sidewalks and student residences.

Section 6. Fines.

Mandates for the first time that the Secretary of Education shall impose civil penalties of up to $25,000 on institutions which fail to comply with the Act's reporting requirements.

By Mr. BENNETT (for himself, Ms. MOSELEY-BRAUN, and Mr. SHELBY):

S. 2101. A bill to amend the Public Health Service Act to provide for research and services with respect to lupus; to the Committee on Labor and Human Resources.

THE LUPUS RESEARCH AND CARE AMENDMENTS OF 1998

● Mr. BENNETT. Mr. President, I rise today to introduce the Lupus Research and Care Amendments of 1998. This legislation would authorize additional funds for lupus research and grants for state and local governments to support the delivery of essential services to low-income individuals with lupus and their families. The National Institute of Health (NIH) spent about $33 million on lupus research last year. I believe that we need to increase the funds that are available for research of this debilitating disease.

Lupus is not a well-known disease, nor is it well understood, yet at least 1,400,000 Americans have been diagnosed with lupus and many more are either misdiagnosed or not diagnosed at all. More Americans have lupus than AIDS, cerebral palsy, multiple sclerosis, sickle-cell anemia or cystic fibrosis. Lupus is a disease that attacks and weakens the immune system and is often life threatening. Lupus is nine times more likely to affect women than men. African-American women are diagnosed with lupus two to three times more often than Caucasian women. Lupus is also more prevalent among certain minority groups including Latinos, Native Americans and Asians.

Because lupus is not well understood, it is difficult to diagnose, leading to uncertainty on the actual number of patients suffering from lupus. The symptoms of lupus make diagnosis difficult because they are sporadic and imitate the symptoms of many other illnesses. If diagnosed and with proper treatment, the majority of lupus cases can be controlled. Unfortunately, because of the difficulties in diagnosing lupus and inadequate research, many lupus patients suffer debilitating pain and fatigue. The resulting effects make it difficult, if not impossible, for individuals suffering from lupus to carry on normal everyday activities including work. Thousands of these debilitating cases needlessly end in death each year.

Title I of the Lupus Research and Care Amendments of 1998 authorizes $45 million in grants starting in fiscal year 1999 to be earmarked for lupus research at NIH. This new authorization would amount to less than one-half of 1 percent of NIH's total budget but would greatly enhance NIH's research.

Title II of the Lupus Research and Care Amendments of 1998 authorizes $40 million in grants to state and local governments as well as to nonprofit organizations starting in fiscal year 1999. These grants would support the delivery of essential services to low-income individuals with lupus and their families.

I would urge all my colleagues, Mr. President, to join Senator MOSELEY-BRAUN, Senator SHELBY, and myself in sponsoring this legislation to increase funding available to fight lupus.●

By Mr. FEINGOLD (for himself, Mr. JEFFORDS, Mr. LEAHY, and Mr. WELLSTONE):

S. 2102. A bill to promote democracy and good governance in Nigeria, and for other purposes; to the Committee on Foreign Relations.

NIGERIA DEMOCRACY AND CIVIL SOCIETY EMPOWERMENT ACT

● Mr. FEINGOLD. Mr. President, I introduce a sorely needed piece of foreign policy legislation, the Nigeria Democracy and Civil Society Empowerment Act of 1998. As the Ranking Democrat of the Senate Subcommittee on Africa, I have long been concerned about the collapsing economic and political situation in Nigeria. Nigeria, with its rich history, abundant natural resources and wonderful cultural diversity, has the potential to be an important regional leader. But, sadly, it has squandered that potential and the good will of the world with repressive policies, human rights abuses and corruption.

The legislation I am introducing today provides a clear framework for U.S. policy toward that troubled West African nation. The Nigeria Democracy and Civil Society Empowerment Act declares that the United States should encourage the political, economic and legal reforms necessary to ensure the rule of law and respect for human rights in Nigeria and should aggressively support a timely and effective transition to democratic, civilian government for the people of Nigeria. I am pleased to have Senators JEFFORDS, LEAHY and WELLSTONE join me as co-sponsors of this legislation.

This bill draws heavily from legislation introduced in the 104th Congress by the former chair of the Senate Subcommittee on Africa, Senator Kassebaum. I joined 21 other Senators as a proud co-sponsor of that bill. A companion measure to my bill was introduced earlier this week in the House by the distinguished chair of the House International Relations Committee, Mr. GILMAN of New York, and a distinguished member of that Committee and of the Congressional Black Caucus, Mr. PAYNE of New Jersey. I commend both of my House colleagues for their strong leadership on this important issue and I appreciate the opportunity to work with them toward passage of this legislation and the broader goal of a freer Nigeria.

Mr. President, the Nigeria Democracy and Civil Society Empowerment Act provides by law for many of the sanctions that the United States has had in place against Nigeria for a number of years. It includes a ban on most foreign direct assistance, a ban on the sale of military goods and military assistance to Nigeria, and a ban on visas for top Nigerian officials. It would allow the President to lift any of these sanctions if he is able to certify to the Congress that specific conditions, which I will call ''benchmarks,'' regarding the transition to democracy have taken place in Nigeria. These benchmarks include free and fair democratic elections, the release of political prisoners, freedom of the press, the establishment of a functioning independent electoral commission, access for international human rights monitors and the repeal of the many repressive decrees the Abacha regime has pressed upon the Nigerian people.

This legislation also provides for $37 million in development assistance over three years to support democracy and governance programs and the activities of the U.S. Information Agency, and mandates a larger presence for the U.S. Agency for International Development. I want to emphasize that this bill authorizes no new money. All of these funds would come out of existing USAID and USIA appropriations. At the same time, the bill prohibits any U.S. resources from being used to support an electoral process in Nigeria until it is clear that any planned election will be free and legitimate.

Importantly, my bill requires the President to impose additional sanctions at the beginning of 1999 if he cannot certify that a free and fair election has taken place by the end of 1998. These new sanctions, will include a ban on Nigerian participation in major international sporting events, an expansion of visa restrictions on Nigerian officials and the submission of a report that lists the senior officials that fall under such restrictions.

Finally, the bill requires the Secretary of State to submit a report on corruption in Nigeria, including the evidence of corruption by government officials in Nigeria and the impact of corruption on the delivery of government services in Nigeria, on U.s. business interests in Nigeria, and on Nigeria's foreign policy. It would also require that the Secretary's report include information on the impact on U.S. citizens of advance fee fraud and other fraudulent business schemes originating in Nigeria.

The intent of this legislation is twofold. First, it will send an unequivocal message to the ruling military junta in Nigeria that it's continued disregard for democracy, human rights and the institutions of civil society in Nigeria

is simply unacceptable. Second, the bill is a call to action to the Clinton Administration which has yet to articulate a coherent policy on Nigeria that reflects the brutal political realities there.

Nigeria has suffered under military rule for most of its nearly 40 years as an independent nation. By virtue of its size, geographic location, and resource base, it is economically and strategically important both in regional and international terms. Nigeria is critical to American interests. But Nigeria's future is being squandered by the military government of General Sani Abacha. Abacha presides over a Nigeria stunted by rampant corruption, economic mismanagement and the brutal subjugation of its people.

The abiding calamity in Nigeria occurs in the context of economic and political collapse. Nigeria has the potential to be the economic powerhouse on the African continent, a key regional political leader, and an important American trading partner, but it is none of these things. Despite its wealth, economic activity in Nigeria continues to stagnate. Even oil revenues are not what they might be, but they remain the only reliable source of economic growth, with the United States purchasing an estimated 41 percent of the output.

Corruption and criminal activity in this military-controlled economic and political system have become common, including reports of drug trafficking and consumer fraud schemes that have originated in Nigeria and reached into the United States, including my home state of Wisconsin.

After the military annulled the 1993 election of Moshood Abiola as Nigeria's president—through what was considered by many observers to be a free and fair election—Chief Abiola was thrown into prison, where he remains, as far as we know, on the pretext of awaiting trial. Reliable information about his situation and condition is difficult to obtain. Chief Abiola's wife, Kudirat, was detained by authorities last year and was later found murdered by the side of a road under circumstances that suggest the military may have been responsible.

On October 1, 1995, General Abacha announced a so-called ''transition'' program whose goal was the return of an elected civilian government in Nigeria by October 1998. But virtually none of the institutions essential to a free and fair election—an independent electoral commission, an open registration process, or open procedures for the participation of independent political parties, for example—has been put into place in Nigeria. Repression continues; political prisoners remain in jail; the press remains muzzled; and the fruits of Nigeria's abundant natural resources remain in the hands of Abacha's supporters and cronies.

Even this flawed transition process—which in its best days moved at a snail's pace—has now been completely destroyed by the recent announcement that the fifth of the five officially sanctioned parties has endorsed Gen. Abacha as their candidate. Now, what was to have been a competitive presidential election has become a circus referendum on Abacha himself. The general will allow an election so long as his name is the only one on the ballot. This is little more than a sorry joke on the premise of democracy!

Any criticism of this so-called transition process is punishable by five years in a Nigerian prison. Reports from many international human rights organizations and our own State Department document years of similar brutality. Nigerian human rights activists and government critics are commonly whisked away to secret trials before military courts and imprisoned; independent media outlets are silenced; workers' rights to organize are restricted; and the infamous State Security [Detention of Persons] Decree #2, giving the military sweeping powers of arrest and detention, remains in force.

Perhaps the most horrific example of repression by the Abacha government was the execution of human rights and environmental activist Ken Saro-Wiwa and eight others in November 1995 on trumped-up charges. Since that barbaric spectacle, it appears the Abacha government has been working even harder to tighten its grip on the country, wasting no opportunity to subjugate the people of Nigeria.

Late last year, retired Major General Musa Yar'Adua, a former Nigerian vice president and a prominent opponent of General Abacha, died in state custody under circumstances that remain shrouded in mystery. General Yar'Adua was one of 40 people arrested in 1995 during a government sweep and sentenced to 25 years in prison for an alleged coup plot widely believed to have been a pretext to silence government critics. Just a few weeks ago, we received the disturbing news that five Nigerians had been sentenced to death by a military tribunal amid other unproven accusations of coup-plotting.

The Clinton Administration response to these events has been an earnest muddle at best, and rudderless at worst. I welcome recent efforts to complete the policy review process; in fact, I have been pushing for its completion for quite some time, because I feel the perceived ''lack'' of a policy with respect to Nigeria, for the past two years or so, has been dangerous.

But, unfortunately, the long-awaited and oft-postponed principals' meeting on this issue, which finally took place in April, has not yielded any firm recommendations to the President. I have long urged the Administration to take the toughest stance possible in support of democracy in Nigeria, including a clear unequivocal statement that an electoral victory for Abacha would be totally illegitimate and unacceptable. The regime in Nigeria must know that anything less than a transparent transition to civilian rule will be met with severe consequences, including new sanctions as is mandated in this bill.

So I was particularly disappointed to hear the President remark during his recent trip to Africa that General Abacha would be considered acceptable by the United States if he chose to run in the upcoming election as a civilian. My shock at that remark was tempered somewhat by the efforts of numerous administration officials who struggled to clarify the President's remarks. They insist that the U.S. objective is to support a viable transition to civilian rule in Nigeria, but my worst fears about that ominous remark by the President have now come true. Abacha and his cronies seem to believe that the United States would consider an Abacha victory in the upcoming elections to be a viable, sustainable outcome. Why else would the plan once touted as the basis for a democratic competitive presidential election be downgraded into a rigged referendum on Abacha himself? As planned now, the referendum will be one in which Abacha cannot lose and the people of Nigeria cannot win.

Mr. President, the legislation I am introducing today represents an effort to demonstrate our horror at the continued repression in Nigeria, to encourage the ruling regime to take meaningful steps at reform, to support those Nigerians who have worked tirelessly and fearlessly for democracy and civilian rule and to move our own government toward a Nigeria policy that vigorously reflects the best American values.

I urge my colleagues to support this legislation, and I hope that we will be able to consider it soon in the Committee on Foreign Relations.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2102

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Nigerian Democracy and Civil Society Empowerment Act''.

SEC. 2. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) The continued rule of the Nigerian military government, in power since a 1993 coup, harms the lives of the people of Nigeria, undermines confidence in the Nigerian economy, damages relations between Nigeria and the United States, and threatens the political and economic stability of West Africa.

(2) The transition plan announced by the Government of Nigeria on October 1, 1995, which includes a commitment to hold free and fair elections, has precluded the development of an environment in which such elections would be considered free and fair, nor was the transition plan itself developed in a free and open manner or with the participation of the Nigerian people.

(3) The United States Government would consider a free and fair election in Nigeria

one that involves a genuinely independent electoral commission and an open and fair process for the registration of political parties and the fielding of candidates and an environment that allows the full unrestricted participation by all sectors of the Nigerian population.

(4) In particular, the process of registering voters and political parties has been significantly flawed and subject to such extreme pressure by the military so as to guarantee the uncontested election of the incumbent or his designee to the presidency.

(5) The tenure of the ruling military government in Nigeria has been marked by egregious human rights abuses, devastating economic decline, and rampant corruption.

(6) Previous and current military regimes have turned Nigeria into a haven for international drug trafficking rings and other criminal organizations.

(7) On September 18, 1997, a social function in honor of then-United States Ambassador Walter Carrington was disrupted by Nigerian state security forces. This culminated a campaign of political intimidation and personal harassment against Ambassador Carrington by the ruling regime.

(8) Since 1993, the United States and other members of the international community have imposed limited sanctions against Nigeria in response to human rights violations and political repression.

(9) According to international and Nigerian human rights groups, at least several hundred democracy and human rights activists and journalists have been arbitrarily detained or imprisoned, without appropriate due process of law.

(10)(A) The widely recognized winner of the annulled June 6, 1993, presidential election, Chief Moshood K. O. Abiola, remains in detention on charges of treason.

(B) General Olusegun Obassanjo (rt.), who is a former head of state and the only military leader to turn over power to a democratically elected civilian government and who has played a prominent role on the international stage as an advocate of peace and reconciliation, remains in prison serving a life sentence following a secret trial that failed to meet international standards of due process over an alleged coup plot that has never been proven to exist.

(C) Internationally renowned writer, Ken Saro-Wiwa, and 8 other Ogoni activists were arrested in May 1994 and executed on November 10, 1995, despite the pleas to spare their lives from around the world.

(D) Frank O. Kokori, Secretary General of the National Union of Petroleum and Natural Gas Workers (NUPENG), who was arrested in August 1994, and has been held incommunicado since, Chief Milton G. Dabibi, Secretary General of Staff Consultative Association of Nigeria (SESCAN) and former Secretary General of the Petroleum and Natural Gas Senior Staff Association (PENGASSAN), who was arrested in January 1996, remains in detention without charge, for leading demonstrations against the canceled elections and against government efforts to control the labor unions.

(E) Among those individuals who have been detained under similar circumstances and who remain in prison are Christine Anyanwu, Editor-in-Chief and publisher of The Sunday Magazine (TSM), Kunle Ajibade and George Mbah, editor and assistant editor of the News, Ben Charles Obi, a journalist who was tried, convicted, and jailed by the infamous special military tribunal during the reason trials over the alleged 1995 coup plot, the ''Ogoni 21'' who were arrested on the same charges used to convict and execute the ''Ogoni 9'' and Dr. Beko Ransome-Kuti, a respected human rights activist and leader of the pro-democracy movement and Shehu Sani, the Vice-Chairman of the Campaign for Democracy.

(11) Numerous decrees issued by the military government in Nigeria suspend the constitutional protection of fundamental human rights, allow indefinite detention without charge, revoke the jurisdiction of civilian courts, and criminalize peaceful criticism of the transition program.

(12) As a party to the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples' Rights, and a signatory to the Harare Commonwealth Declaration, Nigeria is obligated to grant its citizens the right to fairly conduct elections that guarantee the free expression of the will of the electors.

(13) Nigeria has played a major role in restoring elected, civilian governments in Liberia and Sierra Leone as the leading military force within the Economic Community of West African States (ECOWAS) peacekeeping force, yet the military regime has refused to allow the unfettered return of elected, civilian government in Nigeria.

(14) Despite organizing and managing the June 12, 1993, elections, successive Nigerian military regimes nullified that election, imprisoned the winner a year later, and continue to fail to provide a coherent explanation for their actions.

(15) Nigeria has used its military and economic strength to threaten the land and maritime borders and sovereignty of neighboring countries, which is contrary to numerous international treaties to which it is a signatory.

(b) DECLARATION OF POLICY.—Congress declares that the United States should encourage political, economic, and legal reforms necessary to ensure rule of law and respect for human rights in Nigeria and support a timely and effective transition to democratic, civilian government in Nigeria.

SEC. 3. SENSE OF CONGRESS.

(a) INTERNATIONAL COOPERATION.—It is the sense of Congress that the President should actively seek the cooperation of other countries as part of the United States policy of isolating the military government of Nigeria.

(b) UNITED NATIONS HUMAN RIGHTS COMMISSION.—It is the sense of Congress that the President should instruct the United States Representative to the United Nations Commission on Human Rights (UNCHR) to use the voice and vote of the United States at the annual meeting of the Commission—

(1) to condemn human rights abuses in Nigeria; and

(2) to press for the continued renewal of the mandate of, and continued access to Nigeria for, the special rapporteur on Nigeria, as called for in Commission Resolution 1997/53.

(c) SPECIAL ENVOY FOR NIGERIA.—It is the sense of Congress that, because the United States Ambassador to Nigeria, a resident of both Lagos and Abuja, Nigeria, is the President's representative to the Government of Nigeria, serves at the pleasure of the President, and was appointed by and with the advice and consent of the Senate, the President should not send any other envoy to Nigeria without prior notification of Congress and should not designate a special envoy to Nigeria without consulting Congress.

SEC. 4. ASSISTANCE TO PROMOTE DEMOCRACY AND CIVIL SOCIETY IN NIGERIA.

(a) DEVELOPMENT ASSISTANCE.—

(1) IN GENERAL.—Of the amounts made available for fiscal years 1999, 2000, and 2001 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), not less than $10,000,000 for fiscal year 1999, not less than $12,000,000 for fiscal year 2000, and not less than $15,000,000 for fiscal year 2001 should be available for assistance described in paragraph (2) for Nigeria.

(2) ASSISTANCE DESCRIBED.—

(A) IN GENERAL.—The assistance described in this paragraph is assistance provided to nongovernmental organizations for the purpose of promoting democracy, good governance, and the rule of law in Nigeria.

(B) ADDITIONAL REQUIREMENT.—In providing assistance under this subsection, the Administrator of the United States Agency for International Development shall ensure that nongovernmental organizations receiving such assistance represent a broad cross-section of society in Nigeria and seek to promote democracy, human rights, and accountable government.

(3) GRANTS FOR PROMOTION OF HUMAN RIGHTS.—Of the amounts made available for fiscal years 1999, 2000, and 2001 under paragraph (1), not less than $500,000 for each such fiscal year should be available to the United States Agency for International Development for the purpose of providing grants of not more than $25,000 each to support individuals or nongovernmental organizations that seek to promote, directly or indirectly, the advancement of human rights in Nigeria.

(b) USIA INFORMATION ASSISTANCE.—Of the amounts made available for fiscal years 1999, 2000, and 2001 under subsection (a)(1), not less than $1,000,000 for fiscal year 1999, $1,500,000 for fiscal year 2000, and $2,000,000 for fiscal year 2001 should be made available to the United States Information Agency for the purpose of supporting its activities in Nigeria, including the promotion of greater awareness among Nigerians of constitutional democracy, the rule of law, and respect for human rights.

(c) STAFF LEVELS AND ASSIGNMENTS OF UNITED STATES PERSONNEL IN NIGERIA.—

(1) FINDING.—Congress finds that staff levels at the office of the United States Agency for International Development in Lagos, Nigeria, are inadequate.

(2) SENSE OF CONGRESS.—It is the sense of Congress that the Administrator of the United States Agency for International Development should—

(A) increase the number of United States personnel at such Agency's office in Lagos, Nigeria, from within the current, overall staff resources of such Agency in order for such office to be sufficiently staffed to carry out subsection (a); and

(B) consider placement of personnel elsewhere in Nigeria.

SEC. 5. PROHIBITION ON ECONOMIC ASSISTANCE TO THE GOVERNMENT OF NIGERIA; PROHIBITION ON MILITARY ASSISTANCE FOR NIGERIA; REQUIREMENT TO OPPOSE MULTILATERAL ASSISTANCE FOR NIGERIA.

(a) PROHIBITION ON ECONOMIC ASSISTANCE.—

(1) IN GENERAL.—Economic assistance (including funds previously appropriated for economic assistance) shall not be provided to the Government of Nigeria.

(2) ECONOMIC ASSISTANCE DEFINED.—As used in this subsection, the term ''economic assistance''—

(A) means—

(i) any assistance under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) and any assistance under chapter 4 of part II of such Act (22 U.S.C. 2346 et seq.) (relating to economic support fund); and

(ii) any financing by the Export-Import Bank of the United States, financing and assistance by the Overseas Private Investment Corporation, and assistance by the Trade and Development Agency; and

(B) does not include disaster relief assistance, refugee assistance, or narcotics control assistance under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.).

(b) PROHIBITION ON MILITARY ASSISTANCE OR ARMS TRANSFERS.—

(1) IN GENERAL.—Military assistance (including funds previously appropriated for military assistance) or arms transfers shall not be provided to Nigeria.

(2) MILITARY ASSISTANCE OR ARMS TRANSFERS.—The term ''military assistance or arms transfers'' means—

(A) assistance under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.) (relating to military assistance), including the transfer of excess defense articles under section 516 of that Act (22 U.S.C. 2321j);

(B) assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.) (relating to international military education and training);

(C) assistance under the ''Foreign Military Financing Program'' under section 23 of the Arms Export Control Act (22 U.S.C. 2763); or

(D) the transfer of defense articles, defense services, or design and construction services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), including defense articles and defense services licensed or approved for export under section 38 of that Act (22 U.S.C. 2778).

(c) REQUIREMENT TO OPPOSE MULTILATERAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary of the Treasury shall instruct the United States executive director to each of the international financial institutions described in paragraph (2) to use the voice and vote of the United States to oppose any assistance to the Government of Nigeria.

(2) INTERNATIONAL FINANCIAL INSTITUTIONS DESCRIBED.—The international financial institutions described in this paragraph are the African Development Bank, the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guaranty Agency, and the International Monetary Fund.

SEC. 6. EXCLUSION FROM ADMISSION INTO THE UNITED STATES OF CERTAIN NIGERIAN NATIONALS.

Notwithstanding any other provision of law, the Secretary of State shall deny a visa to, and the Attorney General shall exclude from the United States, any alien who is—

(1) a current member of the Provisional Ruling Council of Nigeria;

(2) a current civilian minister of Nigeria not on the Provisional Ruling Council;

(3) a military officer currently in the armed forces of Nigeria;

(4) a person in the Foreign Ministry of Nigeria who holds Ambassadorial rank, whether in Nigeria or abroad;

(5) a current civilian head of any agency of the Nigerian government with a rank comparable to the Senior Executive Service in the United States;

(6) a current civilian advisor or financial backer of the head of state of Nigeria;

(7) a high-ranking member of the inner circle of the Babangida regime of Nigeria on June 12, 1993;

(8) a high-ranking member of the inner circle of the Shonekan interim national government of Nigeria;

(9) a civilian who there is reason to believe is traveling to the United States for the purpose of promoting the policies of the military government of Nigeria;

(10) a current head of a parastatal organization in Nigeria; or

(11) a spouse or minor child of any person described in any of the paragraphs (1) through (10).

SEC. 7. ADDITIONAL MEASURES.

(a) IN GENERAL.—Unless the President determines and certifies to the appropriate congressional committees by December 31, 1998, that a free and fair presidential election has occurred in Nigeria during 1998 and so certifies to the appropriate committees of Congress, the President, effective January 1, 1999—

(1) shall exercise his authority under section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702) to prohibit any financial transaction involving the participation by a Nigerian national as a representative of the Federal Republic of Nigeria in a sporting event in the United States;

(2) shall expand the restrictions in section 6 to include a prohibition on entry into the United States of any employee or military officer of the Nigerian government and their immediate families;

(3) shall submit a report to the appropriate congressional committees listing, by name, senior Nigerian government officials and military officers who are suspended from entry into the United States under section 6; and

(4) shall consider additional economic sanctions against Nigeria.

(b) ACTIONS OF INTERNATIONAL SPORTS ORGANIZATIONS.—It is the sense of Congress that any international sports organization in which the United States is represented should refuse to invite the participation of any national of Nigeria in any sporting event in the United States sponsored by that organization.

SEC. 8. WAIVER OF PROHIBITIONS AGAINST NIGERIA IF CERTAIN REQUIREMENTS MET.

(a) IN GENERAL.—The President may waive any of the prohibitions contained in section 5, 6, or 7 for any fiscal year if the President makes a determination under subsection (b) for that fiscal year and transmits a notification to Congress of that determination under subsection (c).

(b) PRESIDENTIAL DETERMINATION REQUIRED.—A determination under this subsection is a determination that—

(1) the Government of Nigeria—

(A) is not harassing or imprisoning human rights and democracy advocates and individuals who criticize the government's transition program;

(B) has established a new transition process developed in consultation with the prodemocracy forces, including the establishment of a genuinely independent electoral commission and the development of an open and fair process for registration of political parties, candidates, and voters;

(C) is providing increased protection for freedom of speech, assembly, and the media, including cessation of harassment of journalists;

(D) has released individuals who have been imprisoned without due process or for political reasons;

(E) is providing access for independent international human rights monitors;

(F) has repealed all decrees and laws that—

(i) grant undue powers to the military;

(ii) suspend the constitutional protection of fundamental human rights;

(iii) allow indefinite detention without charge, including the State of Security (Detention of Persons) Decree No. 2 of 1984; or

(iv) suspend the right of the courts to rule on the lawfulness of executive action; and

(G) has unconditionally withdrawn the Rivers State internal security task force and other paramilitary units with police functions from regions in which the Ogoni ethnic group lives and from other oil-producing areas where violence has been excessive; or

(2) it is in the national interests of the United States to waive the prohibition in section 5, 6, or 7, as the case may be.

(c) CONGRESSIONAL NOTIFICATION.—Notification under this subsection is written notification of the determination of the President under subsection (b) provided to the appropriate congressional committees not less than 15 days in advance of any waiver of any prohibition in section 5, 6, or 7, subject to the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1).

SEC. 9. PROHIBITION ON UNITED STATES ASSISTANCE OR CONTRIBUTIONS TO SUPPORT OR INFLUENCE ELECTION ACTIVITIES IN NIGERIA.

(a) PROHIBITION.—

(1) IN GENERAL.—No department, agency, or other entity of the United States Government shall provide any assistance or other contribution to any political party, group, organization, or person if the assistance or contribution would have the purpose or effect of supporting or influencing any election or campaign for election in Nigeria.

(2) PERSON DEFINED.—As used in paragraph (1), the term ''person'' means any natural person, any corporation, partnership, or other juridical entity.

(b) WAIVER.—The President may waive the prohibition contained in subsection (a) if the President—

(1) determines that—

(A) the climate exists in Nigeria for a free and fair democratic election that will lead to civilian rule; or

(B) it is in the national interests of the United States to do so; and

(2) notifies the appropriate congressional committees not less than 15 days in advance of the determination under paragraph (1), subject to the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1).

SEC. 10. REPORT ON CORRUPTION IN NIGERIA.

Not later than 3 months after the date of the enactment of this Act, and annually for the next 5 years thereafter, the Secretary of State shall prepare and submit to the appropriate congressional committees, and make available to the public, a report on governmental corruption in Nigeria. This report shall include—

(1) evidence of corruption by government officials in Nigeria;

(2) the impact of corruption on the delivery of government services in Nigeria;

(3) the impact of corruption on United States business interests in Nigeria;

(4) the impact of advance fee fraud, and other fraudulent business schemes originating in Nigeria, on United States citizens; and

(5) the impact of corruption on Nigeria's foreign policy.

SEC. 11. APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.

Except as provided in section 6, in this Act, the term ''appropriate congressional committees'' means—

(1) the Committee on International Relations of the House of Representatives;

(2) the Committee on Foreign Relations of the Senate; and

(3) the Committees on Appropriations of the House of Representatives and the Senate.●

By Mrs. FEINSTEIN (for herself, Mr. HATCH, and Mrs. BOXER):

S. 2103. A bill to provide protection from personal intrusion for commercial purposes; to the Committee on the Judiciary.

PERSONAL PRIVACY PROTECTION ACT

Mrs. FEINSTEIN. Mr. President, today, along with the Chairman of the

Judiciary Committee, Senator HATCH, and Senators BOXER and KERRY, I am introducing the Personal Privacy Protection Act. This legislation narrowly targets threatening and endangering harassment and privacy abuses undertaken by the stalker press.

Freedom of the press is the bedrock of American Democracy. But there is something wrong when a person cannot visit a loved one in the hospital, walk their child to school, or be secure in the privacy of their own home without being dangerously chased, provoked, or trespassed upon by photographers trying to capture pictures of them to sell to the tabloids.

When people find themselves in the public eye due to a personal tragedy or circumstances beyond their control, they should not be put into personal fear of bodily injury by tabloid media persistently chasing them. And just because a person makes their living on television or in the movies should not mean they forfeit all rights to personal privacy. There is a line between legitimate news gathering and invasion of privacy; between snapping a picture of someone in a public place and chasing them to the point where they fear for their safety; between reporting the news and trespassing on private property. Unfortunately, today that line is crossed more and more frequently by an increasingly aggressive cadre of fortune-seekers with cameras.

I began the process of developing this legislation together with Senator BOXER more than a year ago, after meeting with members of the Screen Actors Guild and hearing about the abuses people suffer every day at the hands of the stalker press—photographers using telephoto lenses to peer into private homes, cars chasing them off the road, having their children stalked and harassed. The tragic death of Princess Diana last August brought the seriousness of the problem home with a blunt force that stunned the world.

This legislation is narrowly drafted. It is not aimed at, nor would it affect, the overwhelming majority of those in the media, but is specifically aimed at abusive, threatening tactics employed by some who do not respect where the line is between what is public and what is private.

The Personal Privacy Protection Act would do two basic things. First, it would make it a crime, punishable by a fine and up to a year in prison, to persistently follow or chase someone in order to photograph, film, or record them for commercial purposes, in a manner that causes a reasonable fear of bodily injury. Cases in which the persistent following or chasing actually caused serious bodily injury would be punishable by up to 5 years in prison, and where the actions caused death, by up to 20 years in prison. The legislation would also allow victims of such actions to bring a civil suit to recover compensatory and punitive damages and for injunctive and declaratory relief.

Second, the legislation would allow civil actions to be brought against those who trespass on private property in order to photograph, film, or record someone for commercial purposes. In such cases, the bill would allow victims to bring suit in Federal court to recover compensatory and punitive damages and to obtain injunctive and declaratory relief.

Furthermore, in certain specified circumstances, the bill would prevent ''technological trespass.'' Specifically, the legislation would allow a civil action where a visual or auditory enhancement device is used to capture images or recordings that could not otherwise have been captured without trespassing. This provision would apply only to images or recordings of a personal or familial activity, captured for commercial purposes, and only where the subject had a reasonable expectation of privacy. In such cases, the victim would be allowed to bring suit in Federal court to recover compensatory and punitive damages and to obtain injunctive and declaratory relief. In the case of trespass or technological trespass, only a civil suit by the victim would be allowed; no criminal penalty would be prescribed.

This legislation is needed because existing laws fail to protect against dangerous and abusive tactics. Although existing laws may cover some instances of abusive harassment or trespass by the stalker press, victims cannot be certain of protection. Existing state laws form at best a patchwork of protection, and courts often make an exception for activity undertaken ostensibly for ''news gathering'' purposes.

For example, state and local harassment law are often not codified and may require exhaustive litigation to enforce. These vary from state to state and from jurisdiction to jurisdiction, and often do not apply in cases involving the media. Some statutes require proof of an intent to harass; and courts in some jurisdictions may allow a broad ''news gathering'' exception.

Similarly, reckless endangerment statutes in some states prohibit recklessly engaging in conduct which creates a substantial risk of serious physical injury to another person. However, these laws are not uniform and their application is very spotty when it comes to dealing with abusive media practices.

Federal, state, and local anti-stalking ordinances often contain loopholes and generally do not apply to activities undertaken for commercial purposes. The Federal anti-stalking ordinance and 28 of the 49 state anti-stalking ordinances—including California's—require proof of the criminal intent to cause fear in order to prosecute.

Existing state trespass laws may be insufficient to protect an owner from an invasion of privacy. For example, an Oregon Court of Appeals upheld a jury verdict for a TV news crew that filmed a police raid in executing a warrant to search the owner's home, despite the fact that the TV crew had entered the property without permission, because the jury found that the intrusion was not ''highly offensive' so as to invade the owner's privacy.

Furthermore, existing trespass laws fail to protect against technological trespass using intrusive technology such as telephoto lenses and parabolic microphones aimed at bedrooms, living rooms, and fenced backyards in which people ought to have an expectation of privacy. Because trespass law requires actual physical invasion, it does not protect against such invasive tactics.

In crafting this legislation, we worked with some of the most renowned Constitutional scholars and First Amendment advocates in the nation, including Erwin Chemerinsky of the University of Southern California Law School, Cass Sunstein of the Chicago School of Law, and Lawrence Lessig of Harvard Law School. At their recommendation, we took the approach of plugging loopholes in existing, long-recognized laws prohibiting harassment and trespassing, rather than creating new provisions out of whole cloth, in order to craft a constitutional bill that fully respects First Amendment and other constitutional rights. This bill does so. The Constitutional scholars concurred unanimously that this legislation is narrowly drafted to withstand constitutional challenge on First Amendment, federalism, or any other grounds.

Mr. President, finally, I should mention that we worked closely with Representative Sonny Bono on this legislation prior to his untimely death, and it was Representative Bono's intention to introduce companion legislation in the House of Representatives. I am deeply saddened that he is not alive today to do so.

I urge my colleagues to support this legislation in order to protect against invasive, harassing, and endangering behavior that can threaten any one of us who, for whatever reason, finds him or herself in the public spotlight. I ask unanimous consent that the text of the bill be included in the RECORD, along with the letters mentioned previously.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 2103

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Personal Privacy Protection Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) Individuals and their families have been harassed and endangered by being persistently followed or chased in a manner that puts them in reasonable fear of bodily injury, and in danger of serious bodily injury or even death, by photographers, videographers, and audio recorders attempting to capture images or other reproductions of their private lives for commercial purposes.

(2) The legitimate privacy interests of individuals and their families have been violated by photographers, videographers, and audio recorders who physically trespass in order to capture images or other reproductions of their private lives for commercial purposes, or who do so constructively through intrusive modern visual or auditory enhancement devices, such as powerful telephoto lenses and hyperbolic microphones that enable invasion of private areas that would otherwise be impossible without trespassing.

(3) Such harassment and trespass threatens not only professional public persons and their families, but also private persons and their families for whom personal tragedies or circumstances beyond their control create media interest.

(4) Federal legislation is necessary to protect individuals and their families from persistent following or chasing for commercial purposes that causes reasonable fear of bodily injury, because such harassment is not directly regulated by applicable Federal, State, and local statutory or common laws, because those laws provide an uneven patchwork of coverage, and because those laws may not cover such activities when undertaken for commercial purposes.

(5) Federal legislation is necessary to prohibit and provide proper redress in Federal courts for trespass and constructive trespass using intrusive visual or auditory enhancement devices for commercial purposes, because technological advances such as telephoto lenses and hyperbolic microphones render inadequate existing common law and State and local regulation of such trespass and invasion of privacy.

(6) There is no right, under the first amendment to the Constitution of the United States, to persistently follow or chase another in a manner that creates a reasonable fear of bodily injury, to trespass, or to constructively trespass through the use of intrusive visual or auditory enhancement devices.

(7) This Act, and the amendments made by this Act, do not in any way regulate, prohibit, or create liability for publication or broadcast of any image or information, but rather use narrowly tailored means to prohibit and create liability for specific dangerous and intrusive activities that the Federal Government has an important interest in preventing, and ensure a safe and secure private realm for individuals against intrusion, which the Federal Government has an important interest in ensuring.

(8) This Act protects against unwarranted harassment, endangerment, invasion of privacy, and trespass in an appropriately narrowly tailored manner without abridging the exercise of any rights guaranteed under the first amendment to the Constitution of the United States, or any other provision of law.

(9) Congress has the affirmative power under section 8 of article I of the Constitution of the United States to enact this Act.

(10) Because this Act regulates only conduct undertaken in order to create products intended to be and routinely transmitted, bought, or sold in interstate or foreign commerce, or persons who travel in interstate or foreign commerce in order to engage in regulated conduct, the Act is limited properly to regulation of interstate or foreign commerce.

(11) Photographs and other reproductions of the private activities of persons obtained through activities regulated by this Act, and the amendments made by this Act, are routinely reproduced and broadcast in interstate and international commerce.

(12) Photographers, videographers, and audio recorders routinely travel in interstate commerce in order to engage in the activities regulated by this Act, and the amendments made by this Act, with the intent, expectation, and routine result of gaining material that is bought and sold in interstate commerce.

(13) The activities regulated by this Act, and the amendments made by this Act, occur routinely in the channels of interstate commerce, such as the persistent following or chasing of subjects in an inappropriate manner on public streets and thoroughfares or in airports, and the use of public streets and thoroughfares, interstate and international airports, and travel in interstate and international waters in order to physically or constructively trespass for commercial purposes.

(14) The activities regulated by this Act, and the amendments made by this Act, substantially affect interstate commerce by threatening the careers, livelihoods, and rights to publicity of professional public persons in the national and international media, and by thrusting private persons into the national and international media.

(15) The activities regulated by this Act, and the amendments made by this Act, substantially affect interstate commerce by restricting the movement of persons who are targeted by such activities and their families, often forcing them to curtail travel or appearances in public spaces, or, conversely, forcing them to travel in interstate commerce in order to escape from abuses regulated by this Act, and the amendments made by this Act.

(b) PURPOSES.—The purposes of this Act are—

(1) to protect individuals and their families against reasonable fear of bodily injury, endangerment, trespass, and intrusions on their privacy due to activities undertaken in connection with interstate and international commerce in reproduction and broadcast of their private activities;

(2) to protect interstate commerce affected by such activities, including the interstate commerce of individuals who are the subject of such activities; and

(3) to establish the right of private parties injured by such activities, as well as the Attorney General of the United States and State attorneys general in appropriate cases, to bring actions for appropriate relief.

SEC. 3. CRIMINAL OFFENSE.

(a) IN GENERAL.—Chapter 89 of title 18, United States Code, is amended by adding at the end the following:

"§ 1822. Harassment for commercial purposes

''(a) DEFINITIONS.—In this section:

''(1) FOR COMMERCIAL PURPOSES.—

''(A) IN GENERAL.—The term 'for commercial purposes' means with the expectation of sale, financial gain, or other consideration.

''(B) RULE OF CONSTRUCTION.—For purposes of this section, a visual image, sound recording, or other physical impression shall not be found to have been, or intended to have been, captured for commercial purposes unless it was intended to be, or was in fact, sold, published, or transmitted in interstate or foreign commerce, or unless the person attempting to capture such image, recording, or impression moved in interstate or foreign commerce in order to capture such image, recording, or impression.

''(2) HARASSES.—The term 'harasses' means persistently physically follows or chases a person in a manner that causes the person to have a reasonable fear of bodily injury, in order to capture by a visual or auditory recording instrument any type of visual image, sound recording, or other physical impression of the person for commercial purposes.

''(b) PROHIBITION AND PENALTIES.—Whoever harasses any person within the United States or the special maritime and territorial jurisdiction of the United States—

''(1) if death is proximately caused by such harassment, shall be imprisoned not less than 20 years and fined under this title;

''(2) if serious bodily injury is proximately caused by such harassment, shall be imprisoned not less than 5 years and fined under this title; and

''(3) if neither death nor serious bodily injury is proximately caused by such harassment, shall be imprisoned not more than 1 year, fined under this title, or both.

''(c) CAUSE OF ACTION.—Any person who is legally present in the United States and who is subjected to a violation of this section may, in a civil action against the person engaging in the violation, obtain any appropriate relief, including compensatory damages, punitive damages, and injunctive and declaratory relief. In any civil action or proceeding to enforce a provision of this section, the court shall allow the prevailing party reasonable attorney's fees as part of the costs. In awarding attorney's fees, the court shall include expert fees as part of the attorney's fees.

''(d) LIMITATION ON DEFENSES.—It is not a defense to a prosecution or civil action under this section that—

''(1) no image or recording was captured; or

''(2) no image or recording was sold.

''(e) USE OF IMAGES.—Nothing in this section may be construed to make the sale, transmission, publication, broadcast, or use of any image or recording of the type or under the circumstances described in this section in any otherwise lawful manner by any person subject to criminal charge or civil liability.

''(f) LIMITATION.—Only a person physically present at the time of, and engaging or assisting another in engaging in, a violation of this section is subject to criminal charge or civil liability under this section. A person shall not be subject to such charge or liability by reason of the conduct of an agent, employee, or contractor of that person or because images or recordings captured in violation of this section were solicited, bought, used, or sold by that person.

''(g) LAW ENFORCEMENT EXEMPTION.—The prohibitions of this section do not apply with respect to official law enforcement activities.

''(h) SAVINGS.—Nothing in this section shall be taken to preempt any right or remedy otherwise available under Federal, State or local law.''.

(b) TECHNICAL AMENDMENT.—The analysis for chapter 89 of title 18, United States Code, is amended by adding at the end the following:

''1822. Harassment for commercial purposes.''.

SEC. 4. PERSONAL INTRUSION FOR COMMERCIAL PURPOSES.

(a) DEFINITION OF FOR COMMERCIAL PURPOSES.—

(1) IN GENERAL.—In this section, the term 'for commercial purposes' means with the expectation of sale, financial gain, or other consideration.

(2) RULE OF CONSTRUCTION.—For purposes of this section, a visual image, sound recording, or other physical impression shall not be found to have been, or intended to have been, captured for commercial purposes unless it was intended to be, or was in fact, sold, published, or transmitted in interstate or foreign commerce, or unless the person attempting to capture such image, recording, or impression moved in interstate or foreign commerce in order to capture such image, recording, or impression.

(b) TRESPASS FOR COMMERCIAL PURPOSES AND INVASION OF LEGITIMATE INTEREST IN PRIVACY FOR COMMERCIAL PURPOSES.—

(1) TRESPASS FOR COMMERCIAL PURPOSES.—It shall be unlawful to trespass on private property in order to capture any type of visual image, sound recording, or other physical impression of any person for commercial purposes.

(2) INVASION OF LEGITIMATE INTEREST IN PRIVACY FOR COMMERCIAL PURPOSES.—It shall be unlawful to capture any type of visual image, sound recording, or other physical impression for commercial purposes of a personal or familial activity through the use of a visual or auditory enhancement device, even if no physical trespass has occurred, if—

(A) the subject of the image, sound recording, or other physical impression has a reasonable expectation of privacy with respect to the personal or familial activity captured; and

(B) the image, sound recording, or other physical impression could not have been captured without a trespass if not produced by the use of the enhancement device.

(c) CAUSE OF ACTION.—Any person who is legally present in the United States who is subjected to a violation of this section may, in a civil action against the person engaging in the violation, obtain any appropriate relief, including compensatory damages, punitive damages and injunctive and declaratory relief. A person obtaining relief may be either or both the owner of the property or the person whose visual or auditory impression has been captured. In any civil action or proceeding to enforce a provision of this section, the court shall allow the prevailing party reasonable attorney's fees as part of the costs. In awarding attorney's fees, the court shall include expert fees as part of the attorney's fees.

(d) LIMITATION ON DEFENSES.—It is not a defense to an action under this section that—

(1) no image or recording was captured; or

(2) no image or recording was sold.

(e) USE OF IMAGES.—Nothing in this section may be construed to make the sale, transmission, publication, broadcast, or use of any image or recording of the type or under the circumstances described herein in any otherwise lawful manner by any person subject to criminal charge or civil liability.

(f) LIMITATION.—Only a person physically present at the time of, and engaging or assisting another in engaging in, a violation of this section is subject to civil liability under this section. A person shall not be subject to such liability by reason of the conduct of an agent, employee, or contractor of that person, or because images or recordings captured in violation of this section were solicited, bought, used, or sold by that person.

(g) LAW ENFORCEMENT EXEMPTION.—The prohibitions of this section do not apply with respect to official law enforcement activities.

(h) SAVINGS.—Nothing in this section shall be taken to preempt any right or remedy otherwise available under Federal, State, or local law.

SEC. 5. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

UNIVERSITY OF CHICAGO LAW SCHOOL,
Chicago, IL, April 30, 1998.

Hon. DIANNE FEINSTEIN,
Senate Judiciary Committee, Technology, Terrorism, and Government Information Subcommittee, Washington, DC.

DEAR SENATOR FEINSTEIN: This is in response to a request for my views on issues of federalism raised by the current effort to prevent harassment and invasion of privacy by certain photographers and journalists. In brief: From the standpoint of the constitutional structure, I believe that these efforts reflect an entirely legitimate exercise of national power. I spell out those reasons in short compass here.

There can be no doubt that in its current form, the proposal is constitutional under the commerce clause. Each of the provisions is carefully drafted to apply if and only if there is a clear nexus with interstate commerce. Thus under existing law, the constitutional question is a simple one, and there is no plausible basis for legal objection.

The more plausible objection is not about technical law but about the spirit of the federal structure. A critic might claim that state law already protects against certain harassing and invasive behavior, and that state law, statutory or common, can easily be adapted to provide stronger protections. Since the several states are generally in the business of preventing against trespass and threatening behavior, why should the federal government intervene? Isn't this the kind of problem best handled at the state level?

These questions would be good ones if they are taken to suggest that state law could, in theory, take care of many of the underlying problems. But the questions are not good ones if they are taken to suggest that in practice, state law does, or will do, all that should be done. There are three important points here.

First, state law is both highly variable and in many places ill-defined—a complex mixture of statutory and common law, a mixture that does not, in many places, give a clear signal against the kind of conduct that the proposed legislation would ban. For example, the standards for reckless endangerment are extremely variable. Nor is it at all clear that most state trespass law prohibits the use of high-technology methods to get access to people's private enclaves. In state court, the common law of trespass is in a notorious and continuing state of flux. So long as the commerce clause is satisfied, there is an entirely legitimate national interest in giving a clear signal that certain behavior is not to be tolerated amidst uncertain and divergent state practices.

Second, the national government often supplements or builds on state law in order to give stronger deterrence. In many states, for example, there are special laws protecting against racial discrimination, environmental harm, or uncompensated invasions of private property. But by itself, this is not an argument that the national government should not provide such measures as well. Congress often acts in order to provide the kind of deterrence that national law—with the availability of federal prosecutors and federal courts—is uniquely in a position to provide. The simple truth is that harassing and invasive practices have not been adequately deterred by state law and the national government can provide further protection. So long as the commerce clause is satisfied, this is a perfectly ordinary and entirely acceptable exercise of national power.

Third, it is important to see that the commercial incentives for engaging in harassing or invasive behavior are emphatically national incentives. If a photographer employed by the National Enquirer chases a movie star or an ordinary person in California, the potential profits are national, and it is the national nature of the profits that makes such behavior so likely. In addition, the nature of the harm tends to involve interstate activity, with movement of people and products across state lines to procure the relevant photograph (when a photograph is involved). If both profits and harms were limited to a single state, it might make more sense to say that each state can handle the problem on its own. But since both profits and harms are national in character, it is far less likely that states are able to do so, as actual practice has tended to show.

I conclude that there is no legal objection to the bill from the standpoint of federalism. I also conclude that the bill fits well within proper practice from the standpoint of maintaining Congress' limited place in the federal structure. In short, this is a national problem calling for a national response.

Sincerely,

CASS R. SUNSTEIN.

HARVARD LAW SCHOOL,
Cambridge, MA, December 7, 1997.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR FEINSTEIN: I have reviewed the draft legislation entitled ''The Protection From Personal Intrusion for Commercial Purposes Act,'' and wanted to write to express my support for legislation. In my view, the legislation represents a balanced and constitutional approach to an increasingly important problem. It has been drafted, I believe, to avoid jeopardizing First Amendment values, and has a firm constitutional foundation in the Commerce Power, and also, in my view, in Congress' Section Five power under the Fourteenth Amendment.

The draft bill proposes three changes to strengthen privacy protections nationally. First, the statute establishes a criminal penalty for harassing conduct engaged in for commercial purposes. Second, the statute establishes a civil penalty for trespass for commercial purposes. And third, the statute establishes a civil penalty for invasions of legitimate interests in privacy for commercial purposes. I consider each provision briefly below.

1. Harassment for commercial purposes

The aim of this provision is to target the repeated and intentional chasing or following of a person in order to record impressions of that person for commercial purpose. The statute would make such conduct criminal, and prescribes enhanced penalties if death or serious bodily harm is proximately caused by such conduct.

A number of points about this provision are important to consider.

(1) The statute is targeting traditionally prohibited conduct, though more narrowly than might ordinarily be expected. The statute is more narrow first because it addresses conduct engaged in for commercial purposes only, and second because it targets chasing or following only for purposes of recording visual and auditory impressions. Both limitations might be said to raise problems of underinclusiveness. In both cases, however, no constitutional problem is presented.

The first narrowing (to commercial purposes) is jurisdictionally required, as the conduct aimed at here is only that affecting interstate commerce. Even it Congress could regulate more broadly, the choice to narrow the scope of its regulation does not reveal any illegitimate content based purpose in selectively proscribing speech conduct. See generally Elena Kagan, The Changing Faces of First Amendment Neutrality: *R.A.V.* v. *St.*

Paul, Rust v. *Sullivan*, and the Problem of Content-Based Underinclusion, 1992 Sup. Ct. Rev. 29. For the same reason, I do not believe the second narrowing (to visual and auditory impressions) raises any significant First Amendment concern.

(2) This is a criminal statute, so one should expect the courts to read the scope of proscribed conduct narrowly. That means that the statute is likely to be applied only to people who intentionally engage in this form of conduct. I believe the statute makes that clear, since in the definition of ''harasses,'' ''persistently'' modifies ''follows or chases.'' That modifier will give courts adequate room to narrow the statute to conduct that is properly within its scope.

(3) Finally, because the statute only punishes conduct which proximately causes serious harm, the statute will not penalize conduct which results in serious harm, but is actually, or legally, ''caused'' by something else. By using the term ''proximately,'' the statute again invites courts to narrow the application of the statute to cases where the legally relevant cause of the harm is the conduct being regulated.

2. Trespass for commercial purposes

The second protection for privacy added by this bill is a protection against trespass for commercial purposes. While the protection of property has traditionally been a function for state regulation, the proposed statute limits the protection to trespasses engaged in for commercial purposes, and by definition, commercial purposes affecting interstate commerce.

There is a long history of support for a provision such as this, especially in the context of civil rights statutes. Congress can well take note of a weakness in the patchwork of state protection against trespass, and supplement such protections with a federal statute. In my view, this statute would fit that form.

3. Invasions of legitimate interests in privacy for commercial purposes

The final section of this proposed bill protects against the invasion of ''legitimate interests in privacy'' for commercial purposes. While I believe this provision is constitutional, it is the most innovative of the three, and deserves special attention.

The interesting aspect of this statute is its method for specifying the type of invasion that is not permitted. The baseline for the statute's protection is the common law protection against trespass. Historically, trespass law was the foundation of our privacy jurisprudence, and this statute is faithful to that tradition.

The innovation in the statute is to extend trespass law to protect interests that are invaded simply because of technological advances—advances that make it possible to capture visual and auditory impressions that would not have been capturable with older technologies. The statute protects traditional interests against these new technologies.

In a sense, the statute aims at translating our traditional protections of privacy into a context where technology has given eavesdroppers a power that they would not originally have had.

In my view, such an effort by Congress is important, and laudable. It is important because we should not allow constitutional rights to be hostage to technology. If technology advances, jeopardizing our constitutional protections, then it is appropriate to adjust rights to compensate for changes in technology. See Lawrence Lessig, Reading the Constitution in Cyberspace, 45 Emory L. J. 869, 871–75 (1996).

More importantly, it is laudable that Congress take the lead in this process. Of course historically, the Supreme Court has also taken part in keeping the constitution up to date, translating old provisions to take account of current problems. But it has always done so with hesitation, since the act of updating often requires political judgments that it doesn't feel well positioned to make.

Far better if those judgments are made by Congress. And in my view, this proposed statute does just that. It represents an effort by Congress to take the lead in the protection of privacy against the threats that changing technology presents. Whatever one's view about the Court doing the same, it is emphatically the role of Congress to support this tradition of translation.

If there are other questions, I can answer, please don't hesitate to contact me.

With kind regards,

LAWRENCE LESSIG.

USC,
THE LAW SCHOOL,
Los Angeles, CA, Nov. 26, 1997.

Senator DIANE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: At the request of Mr. Richard Pfohl of your staff, I have reviewed the proposed bill to prohibit harassment for commercial purposes and to create a cause of action for personal intrusion for commercial purposes. The bill is narrowly written and does not violate the First Amendment. Moreover, even in light of the Supreme Court's decisions restricting the scope of Congress' commerce power, the bill is likely to be upheld as within the scope of congressional authority.

At the outset, it is important to note that the bill does not prohibit anything from being published or broadcast. Nor does it create any liability for the publication or broadcast of any image or information. Both parts of the bill expressly state: ''Nothing in this section may be construed to make the sale, transmission, publication, broadcast, or use of any image or recording of the type or under the circumstances described in this section in any otherwise lawful manner by any person subject to criminal charge or civil liability.''

These provisions are reinforced by sections in both parts of the bill that limit liability to those ''physically present at the time of, and engaging or assisting another in engaging in violation of this section.'' No liability is allowed ''because images or recordings captured in violation of this section were solicited, bought, used, or sold by that person.''

I emphasize these provisions because they make it clear that the bill does not restrict speech or create liability for any publication or broadcast. Rather, the bill prohibits and creates liability for specific dangerous and intrusive activity. At most, the effect on the press is indirect in limiting certain conduct in the gathering of information.

In general, the Supreme Court has held that content-neutral laws that have the effect of restricting speech must meet intermediate scrutiny; that is, they must be shown to be substantially related to an important government purpose. *Turner Broadcast System* v. *Federal Communication Commission*, 114 S.Ct. 2445, 2458 (1994). Although I think that there is a strong argument that the bill does not restrict speech at all, even if a court found that it did, intermediate scrutiny would be met. The government has an important interest in stopping persistently physically following or chasing a person ''in a manner that causes the person to have a reasonable fear of bodily injury.'' This is simply an extension of the prohibition of assaults; there is no First Amendment right for the media to engage in an assault in gathering information. Similarly, there is an important interest in preventing trespass or intrusion on to private property, physically or with technology. There is no First Amendment right for the media to trespass in gathering information.

Although the Supreme Court has recognized that ''without some protection for seeking out the news, freedom of the press could be eviscerated,'' *Branzburg* v. *Hayes*, 408 U.S. 665, 681 (1972), the Court also consistently has refused to find that the First Amendment provides the press any right to violate the law in gathering information. The Court has explained that ''the First Amendment does not guarantee the press a constitutional right of special access to information not available to the public generally.'' Id. at 684. No member of the public has a right to commit an assault or a trespass; nor can the press in gathering information. As the Court declared in *Associated Press* v. *NLRB*, 301 U.S. 103, 132–33 (1937): ''The business of the Associated Press is not immune from regulation because it is an agency of the press. The publisher of a newspaper has no special immunity from the application of general laws. He has no special privilege to invade the rights and liberties of others. He must answer for libel. He may be punished for contempt of court. He is subject to the anti-trust laws. Like others he must pay equitable and nondiscriminatory taxes on his business. The regulation here in question has no relation whatever to the impartial distribution of news.''

The Supreme Court expressly held that the press is not exempt from general laws in *Cohen* v. *Cowles Media Co.*, 501 U.S. 663 (1991). A newspaper published the identity of a source who had been promised that his name would not be disclosed. The Court rejected the argument that holding the newspaper liable for breach of contract would violate the First Amendment. The Court stressed that the case involved the application of a general law that in no way was motivated by a desire to interfere with the press. The Court said: ''Generally applicable laws do not offend the First Amendment simply because their enforcement against the press has incidental effects on its ability to gather and report the news. [E]nforcement of such general laws against the press is not subject to stricter scrutiny than would be applied to enforcement against other persons or organizations.'' Id. at 669–70.

The bill prohibits anyone from persistently following another in a manner that reasonably creates fear of bodily injury or committing a trespass for purposes of capturing a visual or auditory recording. There is no First Amendment right to engage in such activity and no First Amendment basis for an exemption to such a narrowly tailored law.

The other possible constitutional challenge to the bill would be on the ground that it exceeds the scope of Congress' commerce clause authority. From 1936 until April 26, 1995, the Supreme Court did not find one federal law unconstitutional as exceeding the scope of Congress' commerce power. Then in *United States* v. *Lopez*, 115 S.Ct. 1624 (1995), the Supreme Court declared unconstitutional the Gun-Free School Zones Act of 1990 which made it a federal crime to have a gun within 1,000 feet of a school. After reviewing the history of decisions under the commerce clause, the Court identified three types of activities that Congress can regulate under this power. First, Congress can ''regulate the use of the channels of interstate commerce.'' *Id.* at 1629. Second, the Court said that Congress may regulate persons or things in interstate commerce and ''to protect the instrumentalities of interstate commerce.'' 115 S.Ct. at 1629. Finally, the Court said that

Congress may ''regulate those activities having a substantial relation to interstate commerce.'' Id. at 1629–30.

The bill is limiting to regulating commercial activity in that it prohibits and creates liability for ''harrassment for commercial purposes'' and ''trespass and invasion of legitimate interest in privacy for commercial purposes.'' Commercial purposes is defined as activity ''with the expectation of sale, financial gain, or other consideration.'' In *Lopez*, the Court emphasized the absence of commercial activity in the law or its application.

Moreover, the bill fits within the categories articulated in *Lopez*. Through factfinding, Congress should be able to document that those who engaged in such activity are engaged in interstate commerce. This, too, is different from *Lopez*, where the Court stress the lack of any evidence linking the prohibited conduct to interstate commerce.

Please let me know if I can be of further assistance.

Sincerely,

ERWIN CHEMERINSKY.

UNIVERSITY OF CHICAGO LAW SCHOOL,
Chicago, IL, Nov. 24, 1997.

Senator DIANNE FEINSTEIN,
Senate Judiciary Committee,
Technology, Terrorism, and Government Information Subcommittee, Washington, DC.

DEAR SENATOR FEINSTEIN: This letter is in response to your request for my views on the constitutionally of the proposed statute designed to protect against harassment and invasion of privacy by exploitative photographers, sound recorders, and film crews. The bill would create a new federal criminal and civil offense and two additional grounds for federal civil liability. I believe that the bill is constitutional as drafted. Here is a brief analysis of the legal issues.

The first question is whether the federal government has the authority to enact a measure of this kind. The most likely candidate is the commerce clause. Under the commerce clause, the federal government does have this authority, especially in light of the fact that the bill, as written, requires a clear connection between the interstate commerce and the harassing and invasive action. See the rules of construction in sections 2 and 4. In fact this connection is stronger than that in several of the cases in which the Court has upheld congressional action under the commerce clause. See Wickard v. Filburn, 317 U.S. 111 (1942); United States v. Darby, 312 U.S. 100 (1941). United States v. Lopez, 115 S. Ct. 1624 (1995), is not to the contrary, for in that case, Congress did not require any connection between interstate commerce and the prohibited possession of firearms on or near school property. It is conceivable that the bill might be challenged in some cases in which a photographer did not move in interstate commerce and did not sell anything in interstate commerce but intended to do so (see the rules of construction). But under the cases cited above, its probably constitutional even under such circumstances, because the photographer would be part of a ''class'' of participants in interstate commerce.

The second question is whether the bill violates the first amendment. Here it is important to distinguish between a constitutional challenge to the bill ''on its face'' and a challenge to the bill ''as applied.'' I believe that a facial challenge would fail. The bill is content neutral, see Turner Broadcasting Inc. v. FCC, 114 S. Ct. 2445 (1994); its prohibitions apply regardless of the particular content of the underlying material. This is especially important, since the Court treats content-neutral restrictions more hospitably than content-based restrictions. See id. Moreover, the bill is directed at action, not at speech itself; speech itself is left unregulated by the bill. In a way the constitutional attack on the bill amounts to a claimed first amendment right of access to private arenas and to information a right that the Court has generally denied. See Pell v. Procunier, 417 U.S. 817 (1974); Houchins v. KQED, 438 U.S. 1 (1978); Pruneyard Shopping Center v. Robins, 447 U.S. 74 (1980).

To be sure, this is not the end of the matter: A content-neutral restriction on action may create constitutional problems if the action would result in restrictions on the production of speech, as this bill would undoubtedly do. Imagine, for example, a law that defined ''trespass'' to include any effort to take photographs near the White House or the Supreme Court. Cf. United States v. Kokinda, 497 U.S. 720 (1990). In assessing the validity of such a restriction, some relevant questions are whether the restriction is justified by sufficient government interests, whether there are less restrictive alternatives for protecting those interests, and whether the restriction on the production of speech is small or large. See id. In most cases covered by the bill, the restriction would be amply justified. If a photographer has chased someone in such a way as to produce a reasonable fear of bodily injury, the government has a strong reason to provide protection, and the bill is a narrow tailored means of doing so. Thus section 2, adding the new criminal offense, seems on firm ground.

Section 4 is designed to ensure that photographers do not engage in trespasses, or the equivalent of trespasses, in order to invade people's privacy without their consent. This section is also supported by the strong government interest in ensuring that people have a secure private realm, one into which those using the channels of interstate commerce do not enter without consent. In most of its applications, section 4 is also likely to be constitutional. Assume, for example, that a photographer has trespassed into the private property of a movie star in order to take pictures of a dinner or a romantic encounter. Since the images are themselves unregulated (see section 4(d)), the government almost certainly has sufficient grounds to forbid this kind of behavior, a trespass at common law. Although the Supreme Court has subjected some common law rules to first amendment limitations, it has never held that the law of trespass, even though it restricts activity that would produce speech, generally raises constitutional questions. Thus I conclude that section 4 is constitutional in most of its likely applications.

There are some contexts in which harder questions might be raised. Assume, for example, that a presidential candidate is engaged in unlawful activity on private property, and that a journalist and a photographer have used technological devices in order to obtain a record of that activity. Under section 4(b)(2), there has been a kind of federal tort, giving rise of compensatory and punitive damages. It is possible that the special first amendment liability in such cases. Cf. New York Times v. Sullivan, 376 U.S. 254 (1964). Thus a series of cases might be imagined in which section 4, and conceivably even section 2, would give rise to a reasonable constitutional challenge as applied. This is true, however, of a large range of generally permissible statutes; the question for present purposes is whether the bill would be constitutional on its face. I conclude that it would be.

I hope that these brief remarks are helpful.

Sincerely,

CASS R. SUNSTEIN.

ADDITIONAL COSPONSORS

S. 249

At the request of Mr. D'AMATO, the names of the Senator from Massachusetts [Mr. KERRY] and the Senator from Oregon [Mr. SMITH] were added as cosponsors of S. 249, a bill to require that health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissection for the treatment of breast cancer, coverage for reconstructive surgery following mastectomies, and coverage for secondary consultations.

S. 472

At the request of Mr. CRAIG, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 472, a bill to provide for referenda in which the residents of Puerto Rico may express democratically their preferences regarding the political status of the territory, and for other purposes.

S. 882

At the request of Mrs. BOXER, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 882, a bill to improve academic and social outcomes for students by providing productive activities during after school hours.

S. 1021

At the request of Mr. HAGEL, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 1021, a bill to amend title 5, United States Code, to provide that consideration may not be denied to preference eligibles applying for certain positions in the competitive service, and for other purposes.

S. 1194

At the request of Mr. D'AMATO, his name was withdrawn as a cosponsor of S. 1194, a bill to amend title XVIII of the Social Security Act to clarify the right of medicare beneficiaries to enter into private contracts with physicians and other health care professionals for the provision of health services for which no payment is sought under the medicare program.

S. 1252

At the request of Mr. D'AMATO, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1298

At the request of Mr. SHELBY, the name of the Senator from Alabama [Mr. SESSIONS] was added as a cosponsor of S. 1298, a bill to designate a Federal building located in Florence, Alabama, as the ''Justice John McKinley Federal Building.''

S. 1459

At the request of Mr. GRASSLEY, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 1459, a bill to amend the Internal Revenue Code of 1986 to provide a 5-

year extension of the credit for producing electricity from wind and closed-loop biomass.

S. 1677

At the request of Mr. CHAFEE, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1677, a bill to reauthorize the North American Wetlands Conservation Act and the Partnerships for Wildlife Act.

S. 1864

At the request of Ms. MIKULSKI, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 1864, a bill to amend title XVIII of the Social Security Act to exclude clinical social worker services from coverage under the medicare skilled nursing facility prospective payment system.

S. 1868

At the request of Mr. NICKLES, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1868, a bill to express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted for their faith worldwide; to authorize United States actions in response to religious persecution worldwide; to establish an Ambassador at Large on International Religious Freedom within the Department of State, a Commission on International Religious Persecution, and a Special Adviser on International Religious Freedom within the National Security Council; and for other purposes.

S. 1890

At the request of Mr. DASCHLE, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 1890, a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

S. 1891

At the request of Mr. DASCHLE, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 1891, a bill to amend the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage.

S. 1924

At the request of Mr. MACK, the names of the Senator from New Hampshire [Mr. SMITH], the Senator from Indiana [Mr. LUGAR], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 1924, a bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986.

S. 1957

At the request of Mr. BURNS, the name of the Senator from Alabama [Mr. SESSIONS] was added as a cosponsor of S. 1957, a bill to provide regulatory assistance to small business concerns, and for other purposes.

S. 2007

At the request of Mr. COCHRAN, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 2007, a bill to amend the false claims provisions of chapter 37 of title 31, United States Code.

S. 2078

At the request of Mr. GRASSLEY, the names of the Senator from Montana [Mr. BURNS], the Senator from California [Mrs. FEINSTEIN], and the Senator from Missouri [Mr. BOND] were added as cosponsors of S. 2078, a bill to amend the Internal Revenue Code of 1986 to provide for Farm and Ranch Risk Management Accounts, and for other purposes.

SENATE CONCURRENT RESOLUTION 94

At the request of Mr. ABRAHAM, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of Senate Concurrent Resolution 94, A concurrent resolution supporting the religious tolerance toward Muslims.

SENATE RESOLUTION 210

At the request of Mr. WARNER, the name of the Senator from Louisiana [Ms. LANDRIEU] was added as a cosponsor of Senate Resolution 210, a resolution designating the week of June 22, 1998 through June 28, 1998 as ''National Mosquito Control Awareness Week.''

AMENDMENT NO. 2393

At the request of Mr. BROWNBACK the names of the Senator from Missouri [Mr. ASHCROFT], the Senator from Wyoming [Mr. ENZI], the Senator from North Carolina [Mr. HELMS], the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Oklahoma [Mr. INHOFE], and the Senator from Alabama [Mr. SESSIONS] were added as cosponsors of amendment No. 2393 intended to be proposed to S. 2057, an original bill to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENTS SUBMITTED

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

THOMAS AMENDMENTS NOS. 2431–2432

(Ordered to lie on the table.)

Mr. THOMAS submitted two amendments intended to be proposed by him to the bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes; as follows:

AMENDMENT NO. 2431

At the appropriate place, insert the following:

SEC. ___. AMENDMENT TO THE SOCIAL SECURITY ACT.

(A) IN GENERAL.—The table set forth in section 1923(f)(2) of the Social Security Act (42 U.S.C. 1396r—4(f)(2)) is amended in the item relating to Wyoming, in the case of fiscal years 2000, 2001, and 2002, by striking ''0'' each place in appears with respect to those fiscal years and inserting ''0.191''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of section 4721 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 511).

AMENDMENT NO. 2432

At the appropriate place, insert the following:

SEC. ___. CERTAIN HEALTH CLINICS PERMITTED TO PARTICIPATE IN A MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.

(a) IN GENERAL.—Section 1820(c)(2) of the Social Security Act (42 U.S.C. 1395i—4(c)(2)) (as amended by section 4201(a) of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 370)) is amended—

(1) in subparagraph (B)(i), by striking ''public hospital'' and inserting ''public hospital, or a health clinic described in subparagraph (C),''; and

(2) by adding at the end the following:

''(C) HEALTH CLINIC DESCRIBED.—A health clinic described in this subparagraph is a health clinic that—

''(i) operated as a hospital prior to 1993; and

''(ii) is located in a State that promugated rules for medical assistance facilities on July 15, 1997.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 251).

GREGG (AND LEAHY) AMENDMENT NO. 2433

Mr. GREGG (for himself and Mr. LEAHY) proposed an amendment to the bill, S. 1415, supra; as follows:

In title XIV, strike section 1406 and all that follows through section 1412 and insert the following:

SEC. 1406. RESOLUTION OF AND LIMITATIONS ON CIVIL ACTIONS.

(a) STATE ATTORNEY GENERAL ACTIONS.—

(1) PENDING CLAIMS.—With respect to a State, to be eligible to receive payments from the State Litigation Settlement Account, the attorney general for such State shall resolve any civil action seeking recovery for expenditures attributable to the treatment of tobacco related illnesses and conditions that have been commenced by the State against a tobacco product manufacturer, distributor, or retailer that is pending on the date of enactment of this Act.

(2) FUTURE ACTIONS BASED ON PRIOR CONDUCT.—With respect to a State, to be eligible to receive payments from the State Litigation Settlement Account, the attorney general for such State shall agree that the State will not commence any new tobacco claim after the date of enactment of this Act (other than to enforce the terms of a previous judgment) that is based on the conduct of a participating tobacco product manufacturer, distributor, or retailer that occurred prior to the date of enactment of this Act, seeking recovery for expenditures attributable to the treatment of tobacco induced illnesses and conditions against such a participating tobacco product manufacturer, distributor, or retailer.

(3) APPLICATION TO LOCAL GOVERNMENTAL ENTITIES.—The requirements described in paragraphs (1) and (2) shall apply to civil actions commenced by or on behalf of local governmental entities for the recovery of

costs attributable to tobacco-related illnesses if such localities are within a State whose attorney general has elected to resolve claims under paragraph (1) and enter into the agreement described in paragraph (2). Such provisions shall not apply to those local governmental entities that are within a State whose attorney general has not resolved such claims or entered into such agreements.

(b) STATE AND LOCAL OPTION FOR ONE-TIME OPT OUT.—

(1) IN GENERAL.—The Secretary shall establish procedures under which the attorney general of a State may, not later than 1 year after the date of enactment of this Act, elect not to resolve an action described in subsection (a)(1) or not to enter into an agreement under subsection (a)(2). A State whose attorney general makes such an election shall not be eligible to receive payments from the State Litigation Settlement Account. Procedures under this paragraph shall permit such a State to make such an election on a one-time basis.

(2) EXTENSION.—In the case of a State that has secured a judgment against a participating tobacco product manufacturer, distributor, or retailer in an action described in subsection (a)(1) prior to or during the period described in paragraph (1), and such judgment has been appealed by such manufacturer, distributor, or retailer, such period shall be extended during the pendency of the appeal and for an additional period as determined appropriate by the Secretary.

(3) APPLICATION TO CERTAIN STATES.—A State that has resolved a tobacco claim described in subsection (a)(1) with a participating tobacco product manufacturer, distributor, or retailer prior to the date of enactment of this Act may not make an election described in paragraph (1) if, as part of the resolution of such claim, the State agreed that the enactment of any national tobacco settlement legislation would supersede the provisions of the resolution.

(4) LOCAL GOVERNMENTAL ENTITY OPTION FOR ONE-TIME OPT OUT.—

(A) IN GENERAL.—The Secretary shall establish procedures under which the attorney for a local governmental entity which commenced a civil action prior to June 20, 1997, against a participating tobacco product manufacturer, distributor, or retailer seeking recovery for expenditures attributable to the treatment of tobacco related illnesses and conditions, not later that 1 year after the date of enactment of this Act, may elect not to resolve any action described in subsection (a)(3). A local governmental entity whose attorney makes such an election shall not be eligible to receive payments from the State Litigation Settlement Account. Procedures under this paragraph shall permit such a local governmental entity to make such an election on a one-time basis.

(B) EXTENSION.—In the case of a local governmental entity that has secured a judgment against a participating tobacco product manufacturer, distributor, or retailer in a claim described in subsection (a)(3) prior to or during the period described in subparagraph (A), and such judgment has been appealed by such manufacturer, distributor, or retailer, such period shall be extended during the pendency of the appeal and for an additional period as determined appropriate by the Secretary.

(C) APPLICATION TO CERTAIN LOCAL GOVERNMENTAL ENTITIES.—A local governmental entity that has resolved a claim described in subsection (a)(3) with a participating tobacco product manufacturer, distributor, or retailer prior to the date of enactment of this Act may not make an election described in subparagraph (A) if, as part of the resolution of such claim, the local governmental entity agreed that the enactment of any national tobacco settlement legislation would supersede the provisions of the resolution.

(c) ADDICTION AND DEPENDENCY CLAIMS; CASTANO CIVIL ACTIONS.—

(1) ADDICTION AND DEPENDENCE CLAIMS BARRED.—In any civil action to which this title applies, no addiction claim or dependence claim may be filed or maintained against a participating tobacco product manufacturer.

(2) CASTANO CIVIL ACTIONS.—

(A) IN GENERAL.—The rights and benefits afforded in section 221 of this Act, and the various research activities envisioned by this Act, are provided in settlement of, and shall constitute a remedy for the purpose of determining civil liability as to those addiction or dependence claims asserted in the Castano Civil Actions. The Castano Civil Actions shall be dismissed to the extent that they seek relief in the nature of public programs to assist addicted smokers to overcome their addiction or other publicly available health programs with full reservation of the rights of individual class members to pursue claims not based on addiction or dependency in civil actions in accordance with this Act.

(B) ARBITRATION.—For purposes of awarding attorneys fees and expenses for those actions subject to this subsection, the matter at issue shall be submitted to arbitration before one panel of arbitrators. In any such arbitration, the arbitration panel shall consist of 3 persons, one of whom shall be chosen by the attorneys of the Castano Plaintiffs' Litigation Committee who were signatories to the Memorandum of Understanding dated June 20, 1997, by and between tobacco product manufacturers, the Attorneys General, and private attorneys, one of whom shall be chosen by the participating tobacco product manufacturers, and one of whom shall be chosen jointly by those 2 arbitrators.

(C) PAYMENT OF AWARDS.—The participating tobacco product manufacturers shall pay the arbitration award.

(d) RULES OF CONSTRUCTION.—

(1) POST ENACTMENT CLAIMS.—Nothing in this title shall be construed to limit the ability of a government or person to commence an action against a participating tobacco product manufacturer, distributor, or retailer with respect to a claim that is based on the conduct of such manufacturer, distributor, or retailer that occurred after the date of enactment of this Act.

(2) NO LIMITATION ON PERSON.—Nothing in this title shall be construed to limit the right of a government (other than a State or local government as provided for under subsection (a) and (b)) or person to commence any civil claim for past, present, or future conduct by participating tobacco product manufacturers, distributors, or retailers.

(3) CRIMINAL LIABILITY.—Nothing in this title shall be construed to limit the criminal liability of a participating tobacco product manufacturer, distributor or retailer or its officers, directors, employees, successors, or assigns.

(e) DEFINITIONS.—In this section:

(1) PERSON.—The term ''person'' means an individual, partnership, corporation, parent corporation or any other business or legal entity or successor in interest of any such person.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

GREGG AMENDMENT NO. 2434

Mr. GREGG proposed an amendment to the bill, S. 1415, supra; as follows:

In lieu of the language proposed to be inserted, insert the following:

In title XIV, strike section 1406 and all that follows through section 1412 and insert the following:

SEC. 1406. RESOLUTION OF AND LIMITATIONS ON CIVIL ACTIONS.

(a) STATE ATTORNEY GENERAL ACTIONS.—

(1) PENDING CLAIMS.—With respect to a State, to be eligible to receive payments from the State Litigation Settlement Account, the attorney general for such State shall resolve any civil action seeking recovery for expenditures attributable to the treatment of tobacco related illnesses and conditions that have been commenced by the State against a tobacco product manufacturer, distributor, or retailer that is pending on the date of enactment of this Act.

(2) FUTURE ACTIONS BASED ON PRIOR CONDUCT.—With respect to a State, to be eligible to receive payments from the State Litigation Settlement Account, the attorney general for such State shall agree that the State will not commence any new tobacco claim after the date of enactment of this Act (other than to enforce the terms of a previous judgment) that is based on the conduct of a participating tobacco product manufacturer, distributor, or retailer that occurred prior to the date of enactment of this Act, seeking recovery for expenditures attributable to the treatment of tobacco induced illnesses and conditions against such a participating tobacco product manufacturer, distributor, or retailer.

(3) APPLICATION TO LOCAL GOVERNMENTAL ENTITIES.—The requirements described in paragraphs (1) and (2) shall apply to civil actions commenced by or on behalf of local governmental entities for the recovery of costs attributable to tobacco-related illnesses if such localities are within a State whose attorney general has elected to resolve claims under paragraph (1) and enter into the agreement described in paragraph (2). Such provisions shall not apply to those local governmental entities that are within a State whose attorney general has not resolved such claims or entered into such agreements.

(b) STATE AND LOCAL OPTION FOR ONE-TIME OPT OUT.—

(1) IN GENERAL.—The Secretary shall establish procedures under which the attorney general of a State may, not later than 1 year after the date of enactment of this Act, elect not to resolve an action described in subsection (a)(1) or not to enter into an agreement under subsection (a)(2). A State whose attorney general makes such an election shall not be eligible to receive payments from the State Litigation Settlement Account. Procedures under this paragraph shall permit such a State to make such an election on a one-time basis.

(2) EXTENSION.—In the case of a State that has secured a judgment against a participating tobacco product manufacturer, distributor, or retailer in an action described in subsection (a)(1) prior to or during the period described in paragraph (1), and such judgment has been appealed by such manufacturer, distributor, or retailer, such period shall be extended during the pendency of the appeal and for an additional period as determined appropriate by the Secretary, not to exceed one year.

(3) APPLICATION TO CERTAIN STATES.—A State that has resolved a tobacco claim described in subsection (a)(1) with a participating tobacco product manufacturer, distributor, or retailer prior to the date of enactment of this Act may not make an election described in paragraph (1) if, as part of the resolution of such claim, the State agreed that the enactment of any national tobacco settlement legislation would supersede the provisions of the resolution.

(4) LOCAL GOVERNMENTAL ENTITY OPTION FOR ONE-TIME OPT OUT.—

(A) IN GENERAL.—The Secretary shall establish procedures under which the attorney for a local governmental entity which commenced a civil action prior to June 20, 1997, against a participating tobacco product manufacturer, distributor, or retailer seeking recovery for expenditures attributable to the treatment of tobacco related illnesses and conditions, not later that 1 year after the date of enactment of this Act, may elect not to resolve any action described in subsection (a)(3). A local governmental entity whose attorney makes such an election shall not be eligible to receive payments from the State Litigation Settlement Account. Procedures under this paragraph shall permit such a local governmental entity to make such an election on a one-time basis.

(B) EXTENSION.—In the case of a local governmental entity that has secured a judgment against a participating tobacco product manufacturer, distributor, or retailer in a claim described in subsection (a)(3) prior to or during the period described in subparagraph (A), and such judgment has been appealed by such manufacturer, distributor, or retailer, such period shall be extended during the pendency of the appeal and for an additional period as determined appropriate by the Secretary, not to exceed one year.

(C) APPLICATION TO CERTAIN LOCAL GOVERNMENTAL ENTITIES.—A local governmental entity that has resolved a claim described in subsection (a)(3) with a participating tobacco product manufacturer, distributor, or retailer prior to the date of enactment of this Act may not make an election described in subparagraph (A) if, as part of the resolution of such claim, the local governmental entity agreed that the enactment of any national tobacco settlement legislation would supersede the provisions of the resolution.

(c) ADDICTION AND DEPENDENCY CLAIMS; CASTANO CIVIL ACTIONS.—

(1) ADDICTION AND DEPENDENCE CLAIMS BARRED.—In any civil action to which this title applies, no addiction claim or dependence claim may be filed or maintained against a participating tobacco product manufacturer.

(2) CASTANO CIVIL ACTIONS.—

(A) IN GENERAL.—The rights and benefits afforded in section 221 of this Act, and the various research activities envisioned by this Act, are provided in settlement of, and shall constitute a remedy for the purpose of determining civil liability as to those addiction or dependence claims asserted in the Castano Civil Actions. The Castano Civil Actions shall be dismissed to the extent that they seek relief in the nature of public programs to assist addicted smokers to overcome their addiction or other publicly available health programs with full reservation of the rights of individual class members to pursue claims not based on addiction or dependency in civil actions in accordance with this Act.

(B) ARBITRATION.—For purposes of awarding attorneys fees and expenses for those actions subject to this subsection, the matter at issue shall be submitted to arbitration before one panel of arbitrators. In any such arbitration, the arbitration panel shall consist of 3 persons, one of whom shall be chosen by the attorneys of the Castano Plaintiffs' Litigation Committee who were signatories to the Memorandum of Understanding dated June 20, 1997, by and between tobacco product manufacturers, the Attorneys General, and private attorneys, one of whom shall be chosen by the participating tobacco product manufacturers, and one of whom shall be chosen jointly by those 2 arbitrators.

(C) PAYMENT OF AWARDS.—The participating tobacco product manufacturers shall pay the arbitration award.

(d) RULES OF CONSTRUCTION.—

(1) POST ENACTMENT CLAIMS.—Nothing in this title shall be construed to limit the ability of a government or person to commence an action against a participating tobacco product manufacturer, distributor, or retailer with respect to a claim that is based on the conduct of such manufacturer, distributor, or retailer that occurred after the date of enactment of this Act.

(2) NO LIMITATION ON PERSON.—Nothing in this title shall be construed to limit the right of a government (other than a State or local government as provided for under subsection (a) and (b)) or person to commence any civil claim for past, present, or future conduct by participating tobacco product manufacturers, distributors, or retailers.

(3) CRIMINAL LIABILITY.—Nothing in this title shall be construed to limit the criminal liability of a participating tobacco product manufacturer, distributor or retailer or its officers, directors, employees, successors, or assigns.

(e) DEFINITIONS.—In this section:

(1) PERSON.—The term ''person'' means an individual, partnership, corporation, parent corporation or any other business or legal entity or successor in interest of any such person.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. KERRY. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, May 20, for purposes of conducting a Full Committee business meeting which is scheduled to begin at 9:30 a.m. The purpose of this business meeting is to consider pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. KERRY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 20, 1998 at 10:00 a.m. and 4:15 p.m. to hold two hearings.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. KERRY. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, May 20, 1998 at 10:00 a.m. to mark up the following: S. 1691, the American Indian Equal Justice Act; and S. 2069, a bill to permit the mineral leasing of Indian land located within the Fort Berthold Indian Reservation. The Committee will meet in room 485 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. KERRY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, May 20, 1998 at 10:00 a.m. in room 226 on the Senate Dirksen Office Building to hold a hearing on ''S. 1845, the Child Custody Protection Act.''

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. KERRY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, May 20, 1998 at 2:30 p.m. to hold a nomination hearing on Joan A. Dempsey to be Deputy Director of Central Intelligence for Community Management.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. KERRY. Mr. President, I ask unanimous consent that the Special Committee on Aging be permitted to meet on May 20, 1998 at 9:30 a.m. in Dirsken 628 for the purpose of conducting a forum.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OCEANS AND FISHERIES

Mr. KERRY. Mr. President, I ask unanimous consent that the Oceans and Fisheries Subcommittee of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, May 20, 1998, at 9:30 am on harmful algal blooms.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TECHNOLOGY, TERRORISM, AND GOVERNMENT INFORMATION

Mr. KERRY. Mr. President, I ask unanimous consent that the Subcommittee on Technology, Terrorism, and Government Information, of the Senate Judiciary Committee be authorized to hold a hearing during the session of the Senate on Wednesday, May 20, 1998 at 2:30 p.m. in room 226, Senate Dirksen Office Building, on: ''S. 512, Identity Theft.''

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

RELIGIOUS GROUPS CHALLENGE GROWING INTOLERANCE IN EUROPE

● Mr. D'AMATO. Mr. President, I rise today to comment on an issue that concerns many Americans, religious intolerance in Europe. As Chairman of the Commission on Security and Cooperation in Europe, I chaired a hearing on September 18, 1997, on ''Religious Intolerance in Europe Today.'' We heard compelling testimony on the rise of religious intolerance in Europe from representatives of the Muslim and Jewish faiths, Orthodox Church, Roman Catholic Church, an evangelical Protestant church, the Church of the Latter Day Saints, Jehovah's Witness, and the Church of Scientology.

The testimony indicated the following:

Muslims in Europe have been subjected to genocide, mass killings, forced migration and torture, including rape, in the former Yugoslavia; harassment, including police brutality and attacks and other hate crimes by extremist groups against Muslims have been reported throughout Europe, particularly in Germany, France and the United Kingdom; Muslims have been denied permits to build or repair mosques in the Czech Republic, Bulgaria, and elsewhere in Europe; Muslim women are frequently the subject of attacks, discrimination and other forms of abuse and harassment because they choose to wear a head covering;

Struggling Jewish communities in Eastern Europe are often made the scapegoats for the pain of the transition from centrally planned economies to market capitalism; the desecration of Jewish cemeteries and memorials has been on the rise; and anti-Semitic publications, such as The Protocols of Zion, and neo-Nazi computer games have received wider distribution accompanied by the rise of skinhead gangs and hatemongers throughout Europe;

The Greek Orthodox Ecumenical Patriarchate has been subject to recurring acts of violence, and faces serious obstacles imposed by the Government of Turkey, including the closing of the Theological School of Halki, which have a detrimental impact on the activities of the Patriarchate and Orthodox believers in Turkey;

Catholic believers face harassment and violence in parts of Bosnia-Herzegovina and Croatia as well as Northern Ireland, and they face serious impediments to the practice of their faith elsewhere in Europe, including in Belarus, Russia, Greece, Turkey, and Romania;

Some evangelical and charismatic Christian churches have been denied registration by the Governments of Bulgaria, Uzbekistan, Azerbaijan, and Greece and have been harassed, as well as have reportedly had religious materials confiscated; at least one charismatic church in Germany has come under intense scrutiny by the local officials and the German Bundestag's Commission of Inquiry on So-called Sects and Psycho-Groups, faced other forms of harassment, and been the target of vandalism and threats of violence;

Jehovah's Witnesses have been denied registration in a number of OSCE participating States, including Armenia, Austria, Bulgaria, Greece, and Latvia; have been subjected to various forms of harassment, including the prohibition on importation of religious literature and denial of the freedom to assemble for worship services; France's Parliamentary Commission on Sects has categorized Jehovah's Witnesses as a ''criminal sect'' for its prohibition against blood transfusions; Germany's Federal Administrative Court has denied legal status to the Jehovah's Witnesses;

Mormons have been subjected to continued acts of harassment, including confiscation of religious materials, and assault, in Bulgaria; and are prevented from freely sharing their beliefs in several OSCE participating States, including Greece and Turkey; and

Scientologists, including U.S. citizens, have been subjected to pervasive civil, political and economic discrimination, harassment, surveillance, and orchestrated boycotts in Germany.

In the months following this hearing, the Helsinki Commission has noted a chilling effect on religious liberty from actions taken by national parliaments. A law passed on December 10, 1997 by the Austrian Parliament requires that a religious group prove a 20-year existence, have a creed distinct from previously registered groups, and have a membership of at least 0.02% of the population or 16,000 members before they are granted full rights under law. Concerns over this law were raised in Vienna by a Helsinki Commission delegation this past January. A similar law was passed in 1997 in Macedonia. In January 1998, a Helsinki Commission delegation, lead by Co-Chairman CHRISTOPHER SMITH, traveled to Moscow to discuss concerns with the 1997 Russian religion law with Russian government officials, minority religious groups, and the Russian Orthodox Church.

Some governments have passed laws creating government information centers to alert the public to ''dangerous'' groups. The Austrian and Belgian governments have set up hotlines for the public and, through government sponsored advisory centers, distribute information on groups deemed ''dangerous.'' In official Austrian literature, Jehovah's Witnesses are labeled ''dangerous'' and members of this group report that the stigma associated with this government label is difficult to overcome in Austrian society. These information centers directly violate the commitments that Austria and Belgium have made as participating States of the OSCE to ''foster a climate of mutual tolerance and respect,'' in paragraph 16 of the Vienna Concluding Document, and represent excessive governmental intrusion into the public discussion on religious matters.

Several western European Parliaments have or are currently investigating and reporting on the activities of minority religious groups. These parliamentary investigations have also had a chilling effect on religious liberty and appear to cause a public backlash against groups being investigated or labeled ''dangerous.'' For instance, the German Parliament is currently conducting its investigation into ''dangerous sects'' and ''psycho-groups'' and issued an interim report in January 1998. At the Helsinki Commission's September 18 hearing, at least one independent evangelical church reported a direct correlation between the harassment, vandalism and threats of violence they experience and the investigation by the German Parliament's commission. The French Parliament's report contained a list of ''dangerous'' groups in order to warn the public against them and the Belgian Parliament's report had an informal appendix which was widely circulated, which included allegations against many mainline Catholic groups, Quakers, Hasidic Jews, Buddhists, and the YWCA (although not the YMCA).

On Wednesday, May 20, 1998, a coalition of religious groups, including Hasidic Jews, Hindu, Bahia, Seventh Day Adventist, evangelical Protestant and charismatic Catholic communities, Plan to hold a press conference in Brussels to announce that they are about to launch a court challenge to the Belgian Parliamentary Report and the Belgian Government's Advice and Information Center. The premise of the legal challenge is that these actions by the Belgian government violate Belgium's international commitments to religious liberty. I am pleased to see these and other groups such as Human Rights Without Frontiers standing up for this fundamental freedom, and acting to highlight and challenge the actions by European governments that violate the Helsinki Accords and other international commitments on religious liberty.

Mr. President, the recent action by the House adopting the Freedom From Religious Persecution Act, and pending consideration of that bill and parallel measures in the Senate, clearly show that this issue is one that concerns Americans. Many Americans have family or friends who are citizens in countries that have solemnly promised to protect religious liberty, but then restrict it or deny it. Many Americans, through their own religious affiliations, make donations to support the work of their denominations outside this country, or take part in that work themselves as a personal expression of their beliefs. Actions taken by foreign governments that have promised to protect religious liberty and then violate these promises can and do directly affect American citizens during their travels for business or pleasure, when they support the overseas religious efforts of their faiths by donations or personal participation, or through negative effects on their relatives and friends who reside in these countries.

Accordingly, I call upon my colleagues to remain vigilant on this subject, and assure them and all Americans that the Commission will remain active and engaged as we seek to document violations and protect the rights of affected persons.●

TRIBUTE TO RABBI MOSHE SHERER

● Mr. LIEBERMAN. Mr. President, I regret to inform my colleagues in the Senate of the death on Sunday, May 17 of Rabbi Moshe Sherer, President of Agudath Israel of America, a vibrant

organization of Orthodox Jews in our country.

I was privileged to have known Rabbi Sherer for many years and to benefit from his wise counsel. He lived an extraordinarily righteous and productive life, and was a kindly but driving force in the unprecedented growth of his organization and its perspective within America. Rabbi Sherer was also a very successful bridgebuilder to other faith communities in his effort to spread the light of religious truth throughout our country.

I shall miss Rabbi Sherer, and wish to extend to his wife, Deborah, and his children, grandchildren, and great-grandchildren my condolences and best wishes.

Mr. President, I ask that the full text of two articles from the New York Times of May 19, 1998 be printed in the RECORD. The first describes Rabbi Sherer's remarkable life, and the second the effect of his death on the more than 20,000 people who came to his funeral in New York two days ago.

The articles follow:

[From the New York Times, May 19, 1998]

RABBI MOSHE SHERER, 76, WHO CONTRIBUTED TO RISE OF ORTHODOXY'S RIGHT WING IN U.S.

(By Gustav Niebuhr)

Rabbi Moshe Sherer, who built a relatively small Orthodox Jewish organization, Agudath Israel of America, into a politically and religiously influential force among American Jewish groups, died Sunday afternoon in Manhattan. He was 76 and lived in Brooklyn.

He died after an illness of several months, a spokesman for the group said.

Rabbi Sherer had served since 1963 as president of Agudath Israel of America, an educational and social service organization that also represents hundreds of Orthodox religious schools, or yeshivas in the United States and Canada.

Through his work at Agudath Israel, Rabbi Sherer played a leading role in the rise of Orthodox Judaism's right wing, which has gained in influence and self-confidence since the 1960's, at the expense of Orthodoxy's more moderate wing.

That shift seemed unlikely when Rabbi Sherer joined Agudath Israel as its executive vice president in 1941, when it was a small group with few employees. In an interview last year, he said some people warned him that Agudath Israel's rigorously traditional Orthodox approach had little future in America. But, he said, ''it's a growth stock today.''

Sociologists say that Orthodoxy's strict traditionalists have benefited from charismatic leadership, a high birthrate and anxiety among many Orthodox Jews over signs of moral turmoil in society.

Today, Agudath Israel, with headquarters at 84 William St., Manhattan, has branches throughout the country and a Washington office that lobbies the government on religious issues. It belongs to the Agudath Israel World Organization, of which Rabbi Sherer was appointed chairman in 1980. In Israel, it is associated with the strictly Orthodox United Torah Judaism Party, a member of the governing coalition.

Among Agudath Israel's earliest projects under Rabbi Sherer's leadership was sending food shipments to Jews in Nazi-dominated Eastern Europe and producing affidavits to help refugees immigrate to the United States. After World War II, the organization shipped food and religious articles to Jews in displaced persons camps and assisted those who wanted to immigrate.

With Agudath Israel's constituency of religious schools, Rabbi Sherer served a world that prizes scholarship. Born in Brooklyn on June 8, 1921, he was educated at Torah Vodath, a Brooklyn yeshiva, and Ner Israel rabbinical college in Baltimore. He told associates that his main mentor was the late Rabbi Aharon Kotler, who founded a highly regarded yeshiva in Lakewood, N.J.

Yet Rabbi Sherer was known as an organizer rather than an intellectual, with diplomatic and political skills that enabled him to forge coalitions within the decentralized and contentious world of Orthodox Judaism, and with other religious groups.

''He was able to take disparate groups, bring them together and get them to cooperate in the areas where they would agree,'' said Rabbi Nosson Scherman, general editor of Artscroll, a major publisher of Jewish texts.

Rabbi Steven M. Dworken, executive vice president of the Rabbinical Council of America, which represents about 1,000 Orthodox rabbis, said Rabbi Sherer ''was responsible in many, many ways for placing Agudath Israel on the map.''

As the most strictly observant of the Orthodox community became more visible and organized politicians took note. In January 1994, Rabbi Sherer delivered the invocation at the first inauguration of Mayor Rudolph W. Giuilani of New York. Vice President Al Gore was the speaker at the organization's 76th annual dinner, held in New York the day Rabbi Sherer died.

But the organization was also considered important earlier. When The New York Times described the growing influence of local religious groups in a 1974 article, it quoted Rabbi Sherer as saying about Agudath Israel, ''There is hardly a legislator from any Jewish neighborhood in the city who does not know how we stand on issues that concern us and how thorough we are about informing our constituents about positions the legislators take on these issues.''

Still, he did not have the visibility of some of his counterparts at other Jewish organizations. ''He wasn't a headline-maker.'' said Samuel C. Heilman, professor of Jewish studies and sociology at the Graduate School of the City University of New York. Instead, Professor Heilman said, Rabbi Sherer worked quietly ''to keep the channels of communication open'' between Agudath Israel and other Jewish organizations.

What helped is that Agudath Israel reached out to the entire Jewish community with its programs promoting Jewish identity and learning. Last September, for example, the organization sponsored a celebration for men who had completed a seven-year program of reading the entire Talmud, the Jewish civil and religious law, at the rate of a page a day. An estimated 70,000 people participated, filling Madison Square Garden and other arenas.

Rabbi Sherer sometimes took positions at odds with non-Orthodox organizations. He supported aid by Federal and state governments to religious schools, a stand that placed his organization on the same side of that issue as the Roman Catholic Church but nettled some Jewish groups that supported a strict separation of church and state.

Testifying before Congress on this issue in 1961, he said, ''Classical Judaism has, from the very inception of the Jewish people, placed religious education in sharp focus as the centrality of life itself.''

More recently, he helped lead an effort to counter attempts by Reform and Conservative Jews to gain official recognition of non-Orthodox rabbis in Israel. Last November, he announced that Agudath Israel would spend $2 million for newspaper advertisements to promote the view that within Israel, conversions and other rites should remain under Orthodox control.

Agudath Israel's spokesman, Rabbi Avi Shafran, said Rabbi Sherer's stand stemmed from the conviction that ''the only unifying force for the Jewish people is the Jewish religious heritage.''

Rabbi Sherer is survived by his wife, the former Deborah Portman; two daughters, Rochel Langer of Monsey, N.Y., and Elky Goldschmidt of Brooklyn; a son, Rabbi Shimshon Sherer of Brooklyn, and many grandchildren and great-grandchildren.

BOROUGH PARK MOURNS JEWISH LUMINARY

(By Garry Pierre-Pierre)

The armada of yellow buses that usually clog the narrow streets of Borough Park, Brooklyn, shuttling students from yeshivas to their homes, was nowhere in sight yesterday. Instead, the streets were filled with thousands of people mourning the death of Rabbi Moshe Sherer, whom many considered the elder statesman of the American Orthodox Jewish community.

The mourners crowded the streets, stood on rooftops and sat in their living rooms to listen to eulogies, broadcast throughout the neighborhood by loudspeaker, for a man known for his tireless efforts to unite Jewish sects and to reach out to the secular world.

Within hours of his death on Sunday afternoon, his followers had begun gathering on the streets around the modest brick building of Congregation Agudath Israel of Borough Park. By late yesterday, more than 20,000 had lined up to pay their respects.

When Rabbi Sherer's white coffin, draped with a black velvet cloth, was carried from the hearse into a sun-soaked street, a huge cry of grief rose from the crowd. The coffin was supported by about 20 men and seemed in danger of toppling as the men jostled for position.

''He had the power and charisma to bring the secular and religious groups together,'' said Joseph Rappaport, an officer with Congregation Agudath Israel. ''He was able to create bridges.''

Rabbi Sherer, who died at age 78, had for more than 30 years headed Agudath Israel of America, an advocacy organization that he helped transform from a small group into a formidable movement that claims 100,000 members and has branches around the country.

Among those paying respects yesterday were Gov. George E. Pataki, Mayor Rudolph W. Guiliani and other politicians and dignitaries. The crowds grew so big that the police blocked car traffic from 13th through 16th Avenues and 43d through 50th Streets.

One mourner, Morton M. Avigdor, leaned against a police barricade in front of the congregation building and explained how Rabbi Sherer had fought for government benefits and services for children in nonpublic schools by allying himself with Catholic school advocates.

''He felt that people of all faith should be entitled to education,'' said Mr. Avigdor, a lawyer. ''It is truly a great loss.''

TRIBUTE TO NICHOLAS ''NICK'' LEIST

● Mr. BOND. Mr. President, across our great nation there are thousands of teachers dedicated to the development of young minds. In Missouri, as a former Governor and U.S. Senator, I have had the opportunity to meet many educators and have a great deal

of admiration for their commitment to our youth.

I have found, however, some teachers are special and go beyond the call of duty to lead their students toward a rewarding and productive life. Today, I rise to speak about one such teacher who is retiring this year, Nicholas ''Nick'' Leist.

For thirty-six years Mr. Leist has dedicated his life teaching music to young people in Missouri. Mr. Leist has not only been an educator, he has been a friend and inspiration to literally thousands of students. Over the last thirty years, he has taught more than 9,000 students at Jackson High School, and his musicians have had a phenomenal record, having achieved twenty-seven consecutive number one ratings at district music contests. More than eight dozen students have gone on to become teachers themselves, following in the steps of their mentor.

On May 5, 1998, Mr. Leist conducted his last Jackson High School band concert which brought tears to the eyes of students and their Mr. Leist. They will miss Nick Leist at Jackson High School next year; however, the impact he had on students will live on for generations through the people he inspired to greater personal heights. I join the many who wish Mr. Leist happiness in the years to come.●

HONORING TIMOTHY CORDES

● Mr. HARKIN. Mr. President, I would like to bring to the attention of Members of Congress and the country a young constituent of mine.

Some of you may have read about Timothy Cordes in Monday's Washington Post. For those of you who didn't, Tim—who is from Eldridge, Iowa—just received a bachelor's degree in biochemistry from Notre Dame, with a 3.99 grade point average. Tim was the valedictorian of his class and will begin medical school at the University of Wisconsin this summer. These would be outstanding accomplishments for any young person. They are especially remarkable in this case, because Tim is blind—only the second blind person ever admitted to a U.S. medical school.

Tim has a genetic condition that gradually diminished his vision until he was blind when he was 14. Doctors diagnosed him with the disease when he was two. They talked about how blindness would limit Tim's life. But his parents wouldn't accept that for their son. His mother said that after talking with the doctors, ''I went home and just ignored everything they said.'' Thank goodness for that!

I have spent much of my time in the Senate working toward a society in which all Americans, those with disabilities and those without, have the same opportunities to succeed.That's what all people with disabilities want—an equal opportunity to succeed. Some will succeed and some won't, but it will be because of their abilities, not their disabilities. Tim personifies the fact that when society accommodates people with disabilities to allow them to reach their full potential, we all benefit.

At Notre Dame, Tim overcame his blindness by asking fellow students to describe the molecular structures they were studying and by using his computer to re-create the images in three-dimensional forms on a special monitor he could touch. In addition to his academic achievements, Tim earned a black belt in tae kwon do and jujitsu, went to football games and debated with this friends whether the old or new ''Star Trek'' is better.

Tim's biochemistry professor called him a remarkable young man and the most brilliant student he's ever had. One of Tim's roommates said that he was ''simply amazing to be around.''

Tim doesn't mind being an inspiration to others, but he doesn't think of himself that way. In his words, ''[i]t was just hard work.'' Well, that's for sure!

For my part, I am honored to represent Tim and his parents and to be able to take this time to congratulate him and his parents for all their great work. Congratulations!

Mr. President, I ask that the full text of the Washington Post article be printed in the RECORD.

The article follows:

[From the Washington Post, May 18, 1998]

BLIND VALEDICTORIAN IS HEADED TO MED SCHOOL; NOTRE DAME STUDENT CREDITS ''JUST HARD WORK'' FOR HIS SUCCESS

(By Jon Jeter)

SOUTH BEND, IN.—Sure but sightless, Timothy Cordes arrived on the University of Notre Dame' campus four years ago, an 18-year-old freshman from Eldridge, Iowa, who wanted to enroll in the biochemistry program. Faculty members tried, politely, to dissuade him. Just how, they wondered aloud, could a blind student keep up with the rigorous courses and demanding laboratory work of biochemistry?

Cordes graduated today from Notre Dame with a degree in biochemistry and a 3.991 grade-point average. He was the last of Notre Dame's 2,000 seniors to enter the crowded auditorium for commencement. His German shepherd, Electra, led him to the lectern to deliver the valedictory speech as his classmates rose, cheered, applauded and yelled his name affectionately.

Cordes starts medical school in two months, only the second blind person ever admitted to a U.S. medical school. He does not plan to practice medicine. His interest is in research, he said: ''I've just always loved science.''

His life has been both an act of open, mannerly defiance and unshakable faith. And this unassuming, slightly built young man with a choirboy's face awes acquaintances and friends.

Armed with Electra, a high-powered personal computer and a quick wit, Cordes managed a near-perfect academic record, an A-minus in a Spanish class the only blemish. Two weeks ago, he earned a black belt in the martial arts tae kwon do and jujitsu.

''He is really a remarkable young man,'' said Paul Helquist, a Notre Dame biochemistry professor. Helquist at first had doubts but ultimately recommended Cordes for medical school. ''He is by far the most brilliant student I've ever come across in my 24 years of teaching,'' the professor said.

If others find some noble lessons in this life, Cordes perceives it more prosaically: He's merely shown up for life and done what was necessary to reach his goals.

''If people are inspired by what I've done, that's great, but the truth is that I did it all for me. It was just hard work. It's like getting the black belt. It's not like I just took one long lesson. It was showing up every day, and sweating and learning and practicing. You have your bad days and you just keep going.''

Despite his academic accomplishments, Cordes led a fairly ordinary life in college, debating, for example, the merits of the old and new ''Star Trek'' series with Patrick Murowsky, a 22-year-old psychology major from Cleveland who roomed with Cordes their sophomore year.

''The thing about Tim is that he's fearless and he just seems to have this faith. Once we were late for a football game and we had to run to the stadium. He had no qualms about running at top speed while I yelled 'jump,' or I would yell 'duck' and he would duck. And we made it. He is simply amazing to be around sometimes,'' said Murowsky.

Cordes has Leber's disease, a genetic condition that gradually diminished his vision until he was blind at age 14.

When doctors at the University of Iowa first diagnosed the disease when he was 2, ''it was the saddest moment of my life,'' said his mother, Therese, 50.

''The doctors . . . told us: 'He won't be able to do this, and don't expect him to be able to do this,'" Therese Hordes recalled. ''So I went home and just ignored everything they said.''

The ability to conceptualize images has greatly helped Hordes in his studies, Helquist said. The study of biochemistry relies heavily on graphics and diagrams to illustrate complicated molecular structures. Hordes compensated for his inability to see by asking other students to describe the visual sides or by using his computer to re-create the images in three-dimensional forms on a special screen he could touch.

Cordes applied to eight medical schools. Only the University of Wisconsin accepted him. (The first blind medical student was David Hartman, who graduated from Temple University in 1976 and is a psychiatrist in Roanoke, Va.)

''Tim has always exceeded people's expectations of him,'' said Teresa Cordes, who, with her husband, Tom, watched Tim graduate. ''He really does inspire me.''●

TRIBUTE TO DR. JOHN H. MOORE JR.

● Mr. SANTORUM. Mr. President, I rise today to honor Dr. John H. Moore Jr. for his humanitarian efforts on behalf of Operation Smile, an organization that provides free medical care to children around the world.

Dr. Moore distinguished himself when he started the Philadelphia Chapter of Operation Smile in 1988. Since then he has expanded this group to provide annual missions to Nicaragua, the Philippines, Vietnam, Liberia, Kenya and other third world countries. Locally, Operation Smile provides free care for school children in the Philadelphia area. Working with philanthropic organizations, the group brings physicians from other countries to Philadelphia for advanced training in techniques used to reconstruct child deformities.

Operation Smile consists of reconstructive surgeons, professional nurses and concerned citizens who have dedicated themselves to providing relief for children suffering from congenital and acquired deformities.

Through a spirit of selflessness, Dr. Moore has given both this heart and time to Operation Smile. He has served as the President of the chapter's local board and is currently its medical director.

Mr. President, Dr. Moore's dedication is a great source of pride, not only for Pennsylvania, but for the United States. I hope my colleagues will join with me in honoring Dr. Moore for his spirit of community and faithful service.●

AMTRAK BOARD OF DIRECTORS

● Mr. DURBIN. Mr. President, I rise as a strong supporter of Amtrak, recognizing the tremendous potential that advanced rail-passenger technology can play in developing our nation's 21st Century economy.

Amtrak has a distinct and important relationship with the state of Illinois. Chicago is the headquarters of one of Amtrak's three Strategic Business Units and the Intercity Business Unit, which manages all passenger trains in America with the exception of the Northeast Corridor and West Coast services. Downtown Chicago is also home to one of the three nationwide Reservation Call Centers. Amtrak also operates over forty trains per day in Illinois, with a total ridership in excess of 2.5 million passengers. Illinois has first-hand experience with Amtrak's current services and recognizes its future potential.

The Congress has also understood Amtrak's potential. In last year's Taxpayer Relief Act, the Senate and House provided $2.3 billion in Amtrak capital investment to make our federally owned rail passenger carrier a strong contributor to our nation's mobility. Congress also worked diligently to enact the Amtrak Reform and Accountability Act of 1997. With the authority conferred on it by this legislation, Amtrak now has the ability to undertake the organizational restructuring and operational fine-tuning necessary to realize the full benefits promised by the $2.3 billion in capital funding.

An integral component of the reform envisioned by this legislation was the timely selection and seating of an ''Amtrak Reform Board'' comprised of directors with fresh ideas and experience in dealing with the business world. We must ensure that the Administration moves swiftly enough to avoid the consequences of failing to appoint a new Amtrak Reform Board by the statutory deadline, July 1, 1998. Quick action on this matter will allow Amtrak to maintain the authorization mandated in the law signed last December.

I am hopeful that the President will move quickly to appoint the seven directors required under the new law. These appointments should include professionals experienced in the leasing and financing of hundreds of millions of dollars worth of equipment and people familiar with debt rescheduling and refinancing, which are among tasks tailored to Amtrak's business needs.

I would also encourage the Administration to make certain that these appointments fairly represent the various regions of the country, and Illinois is certainly deserving of such representation. Amtrak provides service to over thirty cities in Illinois. In addition, Amtrak employs some 2,200 Illinois residents, with earnings totaling over $50 million per year. Regional representation will also ensure that the diverse interests of our regional economies can be brought to the table for equitable decision making in the Amtrak Boardroom.

Mr. President, I hope my colleagues who support Amtrak will join me in encouraging the Administration to submit qualified candidates, women and men with the knowledge and experience required to strengthen our national system of passenger transportation, to the Senate as soon as possible.●

RECOGNITION OF THE LEADERSHIP TRAINING INSTITUTE FOR YOUTH

● Mr. BOND. Mr. President, I rise to pay tribute to an exemplary program in Missouri, the Leadership Training Institute for Youth (LTI). Every year at Southwest Baptist University in Bolivar, Missouri this leadership camp is held for youth from all over America. This camp inspires youth to work toward their goals and to achieve personal excellence.

With the leadership of Dr. Pat Briney, the attendees learn leadership skills through Christian values. LTI helps to guide youth through their most confusing years and teaches them coping mechanisms for future problems.

LTI represents the kind of spirit, honor and integrity that belong with today's youth leaders. I commend LTI staff and participants for their energy and faith to Christian values and hope they continue their important mission for years to come.●

TRIBUTE TO THE HONORABLE FRANK CAPRIO

● Mr. REED. Mr. President, I rise to pay tribute to Frank Caprio of Providence, Rhode Island, who will be honored at the 37th Annual Verrazzano Day Banquet this Saturday.

A respected and admired Rhode Islander, Frank Caprio was born in Providence in 1936, the son of immigrants. His father peddled produce and delivered milk in the Federal Hill neighborhood, while his beloved mother cared for Frank, his two brothers, Antonio Jr. and Joseph, and dedicated herself to her Church and community.

Frank Caprio epitomizes the American dream. From his humble beginnings, he is today a respected lawyer, successful businessman, and Chief Judge of the Providence Municipal Court. At Central High School he was an all-state wrestler who was encouraged to learn a trade, but he aspired to attain a college education. And he did. He worked his way through Providence College, earning his Bachelor of Arts. He later earned his education certificate from Rhode Island College.

Frank taught American government by day and attended Suffolk Law School at night. Inspired by President Kennedy, he ran for Providence City Council in 1962 and served for eight years. He was a delegate to the Rhode Island Constitutional Convention in 1973, and he has been elected a delegate to the Democratic National Convention five times.

Frank Caprio has practiced law for more than 30 years and has a remarkably diverse practice. He has served as special counsel to Cookson America, a fortune 500 corporation, and as legal counsel to the Providence Redevelopment Agency and the Rhode Island Department of Transportation. But perhaps Frank's most revered clients are neighbors and friends, many of humble means, who seek out Frank as their defender, advocate, and voice. They cherish his friendship and offer trust in return, which is a wonderful tribute to Frank and a testament to the way he has led his life.

Through initiative, hard work and tireless energy, Frank has attained much success in business. He is a principal owner of the Coast Guard House, a historic waterfront restaurant in Narragansett and another popular restaurant, Casey's, in Wakefield. In addition to his success as a restaurateur, Frank is a principal owner of Cherry Hill Housing in Johnston.

Despite all of his success in law, government, and business, Frank has always understood the importance of community and public service. He serves on the board of Federal Hill House and as a volunteer at Nickerson House. He is a fellow of the Rhode Island Community Food Bank, and is a member of both the Bishop's Council and the State Board of Governors for Higher Education.

In honor of his own father, he established the Antonio ''Tup'' Caprio Scholarship at Suffolk University, and is the 1997–1998 Chairman of the Providence College Alumni Fund. He holds an Honorary Doctor of Law Degree from Suffolk and has been recognized by countless organizations for his spirit of community and his humanitarian efforts.

Mr. President, I am pleased today to salute Frank Caprio on receiving the prestigious Annual Verrazzano Day award, and I extend best wishes to Frank, his wife, Joyce, and their wonderful family on this momentous occasion.●

CHILD SUPPORT PERFORMANCE AND INCENTIVE ACT OF 1998

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives to accompanying H.R. 3130.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 3130) entitled ''An Act to provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements, to reform Federal incentive payments for effective child support performance, to provide for a more flexible penalty procedure for States that violate interjurisdictional adoption requirements, to amend the Immigration and Nationality Act to make certain aliens determined to be delinquent in the payment of child support inadmissible and ineligible for naturalization, and for other purposes'', and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. MCCAIN. I ask unanimous consent that the Senate insist on its amendments, agree to the request for a conference, and the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Presiding Officer appointed from the Committee on Finance, Senators ROTH, CHAFEE, GRASSLEY, MOYNIHAN and BAUCUS and from the Committee on Labor and Human Resources, Senators JEFFORDS, COATS and KENNEDY conferees on the part of the Senate.

ORDERS FOR THURSDAY, MAY 21, 1998

Mr. MCCAIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Thursday, May 21. I further ask unanimous consent that on Thursday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then resume consideration of the pending amendments to the tobacco legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MCCAIN. Mr. President, for the information of all Senators, tomorrow morning at 9:30 the Senate will resume consideration of the Gregg-Leahy amendment pending to the tobacco legislation. It is the chairman's intention to move to table the Gregg-Leahy amendment at approximately 11 a.m. I add at this point, it could be later than that because we have had numerous requests to speak on this amendment. So it could be later than that.

Following that vote, it is hoped that the Democrats would be prepared to offer an amendment under a short time agreement. Following disposition of the Democrat amendment, it is hoped the Senate could then consider the farmers' protection issue. At the conclusion of debate on the protection issue, the Senate would proceed to a vote on a motion to strike the Ford language, followed by a vote to strike the McConnell-Lugar language. Therefore, the first vote of Thursday's session is expected at approximately 11 a.m. or later, and Members should expect rollcall votes throughout Thursday's session in order to make good progress on this important tobacco legislation.

Once again, the cooperation of all Senators would be necessary for the Senate to complete its work prior to the Memorial Day recess.

ORDER FOR ADJOURNMENT

Mr. MCCAIN. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Senator LAUTENBERG.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

Mr. LAUTENBERG. Mr. President, I thank the distinguished Senator from Arizona for allowing time for me to make a few concluding remarks here, because I want to discuss an amendment that is one of those offered and pending. It is the Gregg-Leahy amendment. I want to express my opinion on this because I think this is a cornerstone issue in terms of this piece of legislation, the tobacco bill altogether. I simply do not believe that we should provide special legal protection to the tobacco industry.

This isn't a vote about holding together a coalition, as is often described, or some other purpose other than determination as to how this country conducts itself vis-a-vis its tobacco policy. This is going to be a straight vote, up or down, about providing this industry with unprecedented legal protections.

Now, I described it before as kind of a cornerstone issue, because if these special protections that are being talked about in this bill, eliminating immunity for this industry that certainly doesn't deserve immunities in my eyes, tobacco companies, if the bill stands unmodified, unamended, tobacco companies will get special legal protection for having such things as arsenic in its products. But another industry that might use arsenic in its products would not enjoy such protection. They would have to list their product, be very specific, get permission to use it, et cetera. Why in the world would we want to do that—because arsenic is a very dangerous material among the many materials, 500 items, that are included typically in a cigarette.

Why, of all the industries that we have in the United States, would we want to provide special legal protection to the tobacco industry? We are talking about an industry that has continuously lied to Congress, lied to the American people, deceived them about what might happen if they picked up, started smoking cigarettes. The average person wouldn't have the foggiest idea—warnings could be dangerous to health. It doesn't say it is almost guaranteed to make you an addict. It doesn't say if you took these ingredients apart, there are many that are quite toxic. If the labels on the package said you might die if you do this, you might die early, you might die at a prime time in your life when you would like to be with your family and your friends, when you would like to be able to enjoy life, be able to do the things that you do athletically or functionally or vocationally, it doesn't say on there, hey, listen, if you start this, first of all, you will be spending thousands of dollars a year to support this habit.

Having been a smoker, I am somewhat of an expert on the subject. I am not a zealot. I don't say that just because I took the cure, so to speak, that other people have to take it. But I know what it is that got me around to ceasing my smoking habit, and it was the love of a child. It was when my youngest daughter of three children, who was about 7 or 8 years old, came up to me one night when I lit a cigarette after a meal and said ''Daddy, why do you smoke?'' And I said, ''Well, I enjoy it. It is restful, makes me feel good.'' And she said—this is a child in first or second grade—and she said, ''Today we learned if you smoke you get a black box in your throat.'' She said, ''Daddy, I love you. I don't want you to have a black box in your throat.'' This is after I had been smoking some 20 years.

I smoked before I went in the Army and I made sure I smoked when I was in the Army. When I was overseas during the war, I was used to trading butts with my friends. I would take a puff, they would take a puff. Smoking was part of your life—not only part of your life, it was part of your resources. It was a currency. You could trade it for some fresh fruit. You could trade it for a bottle of water—we didn't drink much bottled water in those days, but whatever you chose to have. It was currency. It was more valuable than the French franc or the Dutch guilder—places I was stationed—or the Belgium franc, or the mark, for sure.

So here I smoked and this child brought me to my senses, my daughter. I tried to stop, I would say at least a dozen times. She convinced me in that little message—''I love you. I don't want you to have a black box in your throat.'' All I could think about were those beautiful big eyes looking at me the next couple of days and that was the end of my smoking. Thank goodness that child did me an enormous favor.

But the industry didn't let me know that. The industry didn't let me know at the time that I might develop an illness, emphysema, some other respiratory problem, maybe a fatal heart attack that couldn't be predicted because of smoking. They never told me anything about those things. They said life is more beautiful, life is glamorous. You could be a cowboy on a horse or a great skier. I happen to be, it has nothing to do with my smoking, but the fact of the matter is that all of those things give you images that are deceitful, dishonest, and shouldn't be allowed to be out there with impunity, because if someone falls for that story, someone falls for that image, they wind up in deep, deep trouble, killing 400,000 people a year in this country. That is not a very credible industry, I must tell you. They don't tell you that.

So this industry knew that its products caused cancer. They wouldn't acknowledge it. I sat at hearings galore. I was part of one hearing where we had the scientist in front of us from one of the tobacco companies, a man with incredible credentials if you looked at his curriculum vitae. He had gone to great schools and he had done wonderful things. I asked him what happened when they tested the products on humans, and he said, ''We didn't do human research.'' I almost fell off the chair. I said, ''You didn't?'' All of these studies, by then 60,000 reports on the dangers of smoking had come out. But this company, one of the biggest, said scientists representing him said, ''Oh, no, we didn't.'' I said, ''What did you do in your research?'' He said, ''We did some research on animals.'' I didn't pursue that because I am sure those animals didn't fare very well.

This is an industry that deliberately targeted our children, not for a good purpose, not for better health, for worse health, to try to addict them. If it was an illegal drug, we would be after these guys and they would be thrown in jail for long, long sentences. But they targeted our kids. They went to your children and my children and said: ''Smoke and you are going to be a hero among your peers. Smoke and you will be beautiful. Smoke and you will be desirable.'' All deceit, all lies, all determined, at no matter what cost, to grab that child, get him or her smoking. They knew they could put money in the bank. They could probably take it to the bank as collateral for loans very easily, because that person, with rare exception, was hooked.

That is why we have over 45 million people today who can't quit. I say they can't quit because I never met a smoker yet of any duration—not once—and I meet people all the time, but not once have I met a smoker who didn't say they would like to quit smoking. They tried. They have gone to clinics, wore patches, and they have done this and that. But every time they stop for a while, something else comes up, some situation comes up, and they start all over again.

That is what they want our kids to do. They want our children to be their marker. In all kinds of testimony given—some of it willingly and some unwillingly—by edict of the courts, especially in Minnesota, information has come out that they new bloody well they were targeting kids, and they new doggone well that they alter the nicotine content and make that addiction even firmer. They knew very well that people got cancer and they knew very well that people got sick. They didn't give a darn. They had one thing in their eyes: Cash. And they went after it, and they were willing to seduce children to do it.

In many other cases, if anybody touches a hair on a child's head, they go off to jail. If they dare say something improper to a child, they get punished. These guys wanted to seduce 3,000 kids a day, a million a year, to start smoking because they knew that they made that cash register ring. This industry, that purposely pushed its product on to all American children, focused often on African Americans, or minority children, who seemed to be a little susceptible. Now they find out it is not just the minority children, it is all children that are susceptible.

This industry is being investigated by the Justice Department. What kind of precedent does that set? Because what we are talking about in this bill is immunity from lawsuits for damage created by the smoking habit which they were fooled into beginning. So with all of that, and being investigated by the Justice Department, we say we want to protect them in the event of a lawsuit? We don't want to protect anybody else, like car manufacturers, food manufacturers, or house builders. Food manufacturers have to list everything. They are all subject to redress of their rights through the courts. That is the way it ought to be.

But here we want to do something different. So if this is a condition, why shouldn't we give all white-collar criminals special protection? We could extend it to drug dealers as well.

The Gregg-Leahy amendment will keep the legal system right side up. It will prevent Congress from rewarding the corporate outlaws who are the tobacco industry. Unless we pass this amendment, we are going to undermine the rights of Americans who have been harmed by the tobacco industry's deliberate conduct. These people are dying of lung cancer, heart disease, and they are often debilitated in wheelchairs or in hospitals. They become sick because they were nicotine addicts, which has the same pharmacological qualities as cocaine and heroin. Mr. President, these people should not have their rights abridged, and the tobacco industry should not get unprecedented legal protection.

I ask my colleagues to support the Gregg-Leahy amendment. Don't let the tobacco industry get away with this, because, again, I think this talks about the value of having this legislation. If they are free of their appropriate responsibility under the law, if they are free by virtue of a limitation on immunity, they are going to have a bonanza here, and we ought not to permit it. This amendment is not a deal-breaker, but it breaks a sweetheart deal for the tobacco industry. I hope that when the votes are counted here, the American people will be watching to see what the favorite industry of this body is.

With that, Mr. President, I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 9:30 a.m. on May 21.

Thereupon, the Senate, at 8:25 p.m., adjourned until Thursday, May 21, 1998, at 9:30 a.m.

EXTENSIONS OF REMARKS

INTRODUCTION OF THE 1998 U.S. FOREST SERVICE ORGANIZATION REFORM LEGISLATION

HON. JOE SKEEN

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. SKEEN. Mr. Speaker, I rise today to introduce legislation that is long overdue and desperately needed. My legislation, the 1998 U.S. Forest Service Organization Reform bill is simple legislation. Under this proposal the current Regional Offices of the U.S. Forest Service (USFS) would be eliminated. In the terms of organization structure they would be replaced by state USFS offices. Each state would have a state director, just as several other agencies within the U.S. Department of Agriculture operate. The Bureau of Land Management (BLM), in the Department of the Interior also is organized in this manner.

Authority would be granted for the establishment of up to six technical support centers as well as allowing the USFS to have multi-state directors where the Federal presence is minor. The Forest Service office for a state would be responsible for the administration of National Forest System lands within the state.

I have come to the conclusion that I can no longer wait for the USFS to do the right thing. I can no longer wait for them to solve their management problems. I can no longer wait to see our Forests suffer from neglect, mismanagement and misuse. This administration's record on addressing the major issues facing our Forest on these issues is dismal. Reinventing government in the USFS today means that nobody is in charge. It means forest plans that nobody can understand. It means lawsuits and court decisions that destroy people's livelihoods and damages their families irreparably.

USFS state offices will be the first step in bringing accountability into this agency of government. This office will be closer to the people in the state. The Director will interface directly and often with state officials, local government and concerned citizens. The Director will be accountable for what happens in the forest of the respective states. No longer would the USFS be able to hide in their regional offices. No longer would they be able to ignore problems in the respective states. The BLM manages more land than the USFS. The BLM planning program has been a model of unbridled success when compared to the disastrous Forest Service process. Part of the reason for this success is having a more responsive State office.

I would add at this point I have met numerous excellent USFS employees and I have been continually puzzled as to why these good people cannot make this agency work? Why, year after year, do we have study after study that talks abut the mismanagement? I have finally decided that it is the structure of the USFS that is smothering the abilities of the individual employees and stopping them from solving the problems on our Forest Service lands. Today, we have ''teams'' and ''team leaders'' in government but not supervisors. Let me repeat, we have teams and team leaders, but not supervisors. Our forests deserve attention not unsupervised teams. We need people who will be responsive to the needs of our natural heritage—not to the faceless bureaucracy that currently exists in the Forest Service.

There is no doubt that the USFS will say the cost of implementing this legislation is too expensive. It will not be too expensive or more expensive. Not if they do it right. They need to stop trying to protect their sacred regional office turf. If USDA agencies can do it and BLM can do it, then so can the USFS.

THE 50TH ANNIVERSARY OF THE GREYSTONE PARK ASSOCIATION GREYSTONE PARK, NJ

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to commemorate the 50th anniversary of the Greystone Park Association. Founded in 1948, the Greystone Park Association is an auxiliary to the Greystone Park Psychiatric Hospital. The association was formed to augment the services provided by the state and is dedicated to working for the welfare of the patients.

The Greystone Park Association was founded through the efforts of Mrs. Eads Johnson of Morristown, New Jersey. The main focus of the organization was to interest the public in the needs of mental hospitals, particularly Greystone Park Psychiatric Hospital and to interest people in volunteering for service either in the hospital proper or in the association.

Since its establishment in 1948, the association has been dedicated to serving the needs of patients at Greystone Park Psychiatric Hospital. The Greystone Park Association is directly affiliated with the State Hospital. The association's membership is drawn from Morris, Passaic, Hudson and Bergen counties, which the hospital serves.

Many people have benefited from the 50 years of tireless work of the members of the Greystone Park Association. The members continue to operate shops containing clothing, jewelry, antique treasures, etc. two days a week on a year round basis. Also, they hold an Annual Fall Festival, which is the most ambitious fund-raising project and reflects the combined efforts of the hospital, community and the Greystone Park Association.

The Greystone Park Association provides admission packets, clothing, good grooming items, games and books to patients throughout the year, and each patient receives a personal gift during the Holiday season. The Greystone Park Association is committed to improving the quality of life of the patients at the Greystone Park Psychiatric Hospital.

Mr. Speaker, my fellow colleagues, please join me in congratulating the Greystone Park Association for providing 50 years of important service to the community at Greystone Park Psychiatric Hospital.

NATIONAL POLICE WEEK

HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. NETHERCUTT. Mr. Speaker, I rise today in honor of National Police Week to recognize the service of all the law enforcement officers in the 5th Congressional District of Washington who have answered the call to public service.

Society places large responsibilities on our law enforcement officers and they perform tasks well beyond the call of duty. They are often the first contact individuals have with government. They should be commended for the great wisdom and compassion they show when assisting individuals during times of great personal sorrow.

By nature of their profession, law enforcement officers encounter individuals every day who reject every moral and ethical code of conduct. In some cases, police risk their lives, emotional well-being and future happiness to ensure that our laws our enforced. They should be commended for their samaritan service.

Mr. Speaker, law enforcement is not a profession for everyone, but it is a worthwhile calling. I encourage my colleagues and all Americans to take some time this week to thank a law enforcement officer in their community for all the hard work and dedication they give us all.

MICHAEL J. BURKE: BOYS HOPE/GIRLS HOPE HEART OF GOLD AWARD RECIPIENT

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. PORTMAN. Mr. Speaker, I rise to recognize the contributions of Michael J. Burke, a constituent and community leader who will receive Cincinnati's Boys Hope/Girls Hope's highest honor, the Heart of Gold Award, on May 26, 1998.

Mike Burke's personal commitment to numerous charities in our region reflects his philosophy of giving back to our community. For over 10 years, Boys Hope/Girls Hope has been blessed by Mike's tireless energy, talent and dedication. Boys Hope provides talented, underprivileged grade and high school children and young men with a safe, wholesome living environment from which they can pursue their studies and prepare for college. The goal of

Boys Hope/Girls Hope is to overcome the obstacles of poverty, abuse and neglect and provide a structured, caring educational experience for students through high school and college.

Through Mike's leadership, Boys Hope is concluding a successful effort to bring Girls Hope to Cincinnati. Girls Hope will permit the expansion of services to include young women in Greater Cincinnati.

Mike's vision has provided so many young people in our area with an exceptional opportunity to succeed. All of us in Greater Cincinnati owe Mike a debt of gratitude and congratulate him on receiving the Heart of Gold Award.

RECOGNIZING THE GOVERNOR'S SCHOOL FOR GOVERNMENT AND INTERNATIONAL STUDIES

HON. TOM BLILEY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. BLILEY. Mr. Speaker, I rise today to commend the outstanding performance of the Governor's School for Government and International Studies in Richmond, Virginia in the ''We the People * * * the Citizen and the Constitution'' national finals held in Washington, DC, over May 2–4.

After beating other school teams on the State level, these talented, hard-working students went on to compete against 49 other classes from across the nation. The performance demonstrated their remarkable understanding of the fundamental ideals and values embodied in the Constitution and the United States government.

I commend students Anne Carpenter, Tiffanie Chan, Amy Depcrynski, Beky Dohogne, Chris Farrell, Melanie Forbes, Shannon Goodwyn, Jennifer Gunter, Lauren Hamilton, Mason Hedgecoth, Zoe Heiberger, Serena Homes, Chris Kessler, Mat Reynolds, Takeisa Rowlett, Derick Russell, Sada Smith, Anne Sommers, Amol Tripathi, Mei Hwa Yeh and their teacher Philip Sorrentino on this achievement.

TRIBUTE TO SERGEANT HARVEY TOMLINSON

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. RADANOVICH. Mr. Speaker, I rise today to pay tribute to Sergeant Harvey Tomlinson for providing 30 years of meritious law enforcement service to the community. Sergeant Harvey Tomlinson is retiring May 27, 1998. Sergeant Tomlinson has saved 15 lives in his career and is respectfully deserving of this honor.

Sergeant Tomlinson started his career by volunteering for the Mariposa County Sheriff's Posse in 1968. He was hired as a deputy by Mariposa County in 1969 and later attained the position of undersheriff before leaving the department in 1975. He then joined the Madera County Sheriff's Department where he became promoted to sergeant in 1981. Sergeant Tomlinson served as the coordinator for both the Search & Rescue and the Posse, and has served in these departments up until his retirement.

During his career, Mr. Tomlinson worked in the Madera County Jail, served as a patrolman, served as a detective, served as a detective sergeant, and for all but two summers, was in charge of boating operations on Bass Lake.

The highlights of his career are his Search & Rescue accomplishments. He directed and executed over 500 missions, directly saving 15 lives by his actions. Additionally, he has located and helped more than 900 people who have been lost or injured.

Mr. Speaker, it is with great honor that I pay tribute to Sergeant Harvey Tomlinson. Sergeant Tomlinson's accomplishments in law enforcement and devotion to saving lives should serve as a model for anyone interested in a career in law enforcement. I ask my colleagues to join me in wishing Sergeant Harvey Tomlinson continued success with any future endeavors.

GREENFIELD ELEMENTARY SCHOOL HONORED BY DEPARTMENT OF EDUCATION

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. COYNE. Mr. Speaker, I rise to commend the students, faculty, and administration of Greenfield Elementary School, whose outstanding performance was recently honored by the Department of Education and the National Association of State Coordinators of Compensatory Education. Greenfield Elementary is one of only 109 schools nationwide to be recognized by the Title I Recognition Program. The Title Recognition Program honors schools that have set and reached high student achievement goals, fostered professional development, and built partnerships with parents and the community.

Greenfield Elementary School is a great example of what our public schools can accomplish with a lot of effort and some additional resources. Eighty percent of Greenfield's students are eligible for free or reduced price lunches. Their ethnically diverse student body is 65% African-American and 20% foreign-born. 95% of the students are bused to school. Title I has allowed the school to reduce its first-grade class size to 18 students and provide instructional assistants to all grade levels. The people there believe this lower adult-to-child ration, which increases the interactions children have with caring and sensitive adults, is critical to creating a productive learning environment.

The results at Greenfield are impressive. The children are in school 91% of the time. They are ranked among the top five schools in the district in communications and mathematics. They have used the diversity of their student body as a teaching resource, which allows students to learn about other countries, places, and customs.

I applaud Greenfield Elementary School for its accomplishments. I know their success is a result of a great deal of hard work by teachers, students, administrators, parents, and the Pittsburgh community.

TRIBUTE TO GENE CAPLINGER, RALPH CARTER, BOBBY G. MILLS AND RAYBURN SMITH

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. BERRY. Mr. Speaker, I rise today to honor four great Americans.

Gene Caplinger, Ralph Carter, Bobby G. Mills and Rayburn Smith are veterans of World War II and have been members of the American Legion post in Harrisburg, Arkansas, for 50 years.

As members of the American Legion, these men have been tremendous supporters of the community. The contributions they have made to future generations are immeasurable. Arkansas Boys State, the American Legion baseball program, and countless scholarship funds have flourished in Harrisburg due to the leadership of these four individuals.

Our nation is fortunate to have been represented in times of trial by men of character like Gene Caplinger, Ralph Carter, Bobby G. Mills, and Rayburn Smith. When their tours of duty ended, these men chose to return home and serve their hometown as they had served their country. Mr. Speaker, the people of Harrisburg could have asked for nothing more.

A TRIBUTE TO LT. COL. MARK SCHOENROCK

HON. BILL BARRETT

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. BARRETT of Nebraska. Mr. Speaker, Lt. Colonel Mark A. Schoenrock of Fairbury, Nebraska, completes 20 years of service in the United States Army this month. After being posted in Washington, DC, for the past 7 years, Lt. Col. Schoenrock and his family will be moving on next month to new challenges in Denver, Colorado, where Lt. Col. Schoenrock has received a new posting as the Inspector General of the Colorado National Guard. Having gotten to know Lt. Col. Schoenrock in his capacity as a legislative liaison with the Army, let me share with you some of Lt. Col. Schoenrock's career milestones.

He was commissioned an officer in the United States Army on May 13, 1978, in Lincoln, Nebraska, upon graduation from the University of Nebraska-Lincoln (UN–L) and the Army Reserve Officers Training Corps (ROTC). He was a 4-year Army ROTC scholarship winner, graduated from UN–L with distinction, and was a Distinguished Military Graduate. He completed the Quartermaster Officer Basic Course at Fort Lee, Virginia, with honors and was assigned as an Assistant Brigade Logistics Officer, Platoon Leader, and Battalion Logistics Officer with the 25th Infantry Division (Tropic Lightning) at Schofield Barracks, Hawaii. While assigned to the Tropic Lightning Division, Lt. Col. Schoenrock deployed three times to the Republic of Korea. Following his three years in Hawaii, Lt. Col. Schoenrock completed the Quartermaster Officer Advanced Course at Fort Lee, Virginia, again graduating with honors. He was selected as the Outstanding Logistician for the

course. He was subsequently assigned to Fort Riley, Kansas, and the First Infantry Division (Big Red One) where he served as a Company Commander and Maneuver Brigade Logistics Officer. In this agreement, he deployed twice to the Federal Republic of Germany. He was responsible for the entire logistical support of 2,500 soldiers for eight weeks and their safe and efficient transport from Kansas to Germany and back.

Upon the completion of his 4-year tour at Fort Riley, Lt. Col. Schoenrock was selected to represent the Army in the highly competitive Training With Industry (TWI) program. He served as the Army's first representative with the General Motors Corporation, Allison Gas Turbines Division. He played an instrumental role in the development of the T–800 engine, which is now the engine in the Army's Comanche helicopter.

Following TWI, Lt. Col. Schoenrock served as a Contracting Officer and Contracting Section Chief in St. Louis, Missouri, responsible for the development and acquisition of petroleum and water logistics. He was responsible for the acquisition of many end items that served our soldiers so well during Operation Desert Storm and that were vital to our ultimate victory in the deserts of southwest Asia. He then was selected to attend the Army Command and General Staff College (CGSC) at Fort Leavenworth, Kansas.

Following CGSC graduation, Lt. Col. Schoenrock was selected to be the principal acquisition advisor to the Inspector General of the Army in Washington. In this role, he advised and assisted the Inspector General with some of the Army's most sensitive acquisition programs and other matters. He then was selected to serve as an executive officer in the Office of the Assistant Secretary of the Army (Research, Development and Acquisition). He served as a key facilitator in preparing the Army leadership for senior level Secretary of Defense and Congressional reviews for programs that were valued in excess of $30 billion.

He then was selected to serve as an Army liaison officer with Congress. Lt. Col. Schoenrock has worked directly with the Army leadership and with Members of Congress and their staffs in resolving matter of the utmost sensitivity and urgency.

Through the programs he has worked these past seven years in our nation's capital, Lt. Col. Schoenrock has made a difference in the lives of thousands of people. He has worked to ensure programs totaling billions of dollars are wisely and prudently executed to provide maximum benefit to the Army and to the communities that are so clearly related to the Army.

Lt. Col. Schoenrock was recently selected as the next Inspector General for the State of Colorado's National Guard. In this position, he will advise and assist the State Adjutant General and Governor regarding military matters within their area of responsibility, I'm confident Lt. Col. Schoenrock will do his utmost to continue his outstanding record of achievement and service to our nation in this new duties.

Mr. Speaker, as a career Army officer, as a husband and father, and dedicated churchman, I wish Mark Schoenrock well as he and his family depart Washington for Colorado.

TRIBUTE TO DR. WILLIAM LLOYD BIRCH

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to Dr. William Lloyd Birch of the Sixth Congressional District of South Carolina. Dr. Birch has taught at Francis Marion University in Florence, South Carolina, since he moved to the Palmetto State in 1971. It is on the occasion of his retirement that I pay tribute to his 27 years of tireless involvement in the community surrounding the Pee Dee area of South Carolina.

A native of Louisville, Kentucky, Dr. Birch received his B.A. at Georgetown College in Georgetown, Kentucky. He received a Th.B. from Southern Baptist Theological Seminary in 1955. From 1949–1960 Dr. Birch conducted summer youth revivals throughout the state for the Kentucky Baptist Convention. He was a Mission Pastor and served as Interim Pastor for First Baptist Church in Prestonsburg, Kentucky. From there, he was pastor at Shakertown Baptist in Harrodsburg, Visalia Baptist in Covington, Wildwood Baptist in Ashland, and Chevy Chase Baptist in Lexington. He served on the Board of Directors for The Western Recorder, the Kentucky Baptist state paper, and was an Executive Board Member of the Kentucky Baptist Convention from 1964–1967. He was also on the Board of Directors of the Christian Life Committee.

In 1969, Dr. Birch received an M.A. in Sociology from the University of Kentucky. He received his Ph.D. in 1971. Dr. Birch began his distinguished teaching career at Georgetown College in Georgetown, Kentucky as a part-time instructor and then Assistant Professor.

Dr. Birch moved to the Sixth Congressional District of South Carolina in 1971 and began as an Associate Professor of Sociology at FMU. In 1972, he established the Sociology major and Department of Sociology. He served as Chairman of the department for 23 years. From his leadership during the founding of the Sociology department, the Sociology major was the third most popular major on campus for many years. Through 1994, it remained in the top 5 largest majors of bachelor level graduates. Since the University opened, 35% of all graduates have taken Dr. Birch's Courtship and Marriage course, a course not required by any major. During his stint at FMU, Dr. Birch has also made professional presentations and published articles or book reviews a total of 45 times. In addition, he has made an average of one presentation per month during his tenure to workshops, civic clubs, hospitals, hospices and Family Life Conferences for a total of 297 presentations.

Dr. Birch has received numerous awards during his tenure at FMU. He was awarded the Distinguished Professor Award in 1977–1978 and held the Joan and Garry Gladstone Chair in Sociology since 1989. He is also a member of the Alpha Kappa Delta Honorary Society and the Pi Gamma Mu Honorary Society. Among his professional affiliations are the American Sociological Association, Southern Sociological Society, Association for the Sociology of Religion, and the Society for the Scientific Study of Religion. He was a charter member and served as Vice President of the South Carolina Sociological Society and is a Legacy Council member of the National Council on Family Relations. He also served on the Board of Directors and was Chairman of the Legislative Action Committee of the Southeastern Council on Family Relations. He was President and served on the Executive Committee of the South Carolina Council on Family Relations, is a Clinical Member of the American Association of Marriage and Family Therapy, and served as Vice President of the South Carolina Association Marriage and Family Therapy.

Aside from his professional organizations related to Sociology, Dr. Birch is a licensed Marriage and Family Therapist. He remains in private practice at Family Therapy Associates in Florence where he has practiced since 1974. Dr. Birch has been a therapist at the Pastoral Counseling Service in Florence, a Consultant to the S.C. Department of Youth Services, and a Consultant on Human Sexuality for the National Council of Churches Task Force on Developmental Disabilities. He has also served as a member of the Ethics Committee of McLeod Regional Medical Center.

Dr. Birch's first professional appointment came from Governor West in 1973. He was appointed to the S.C. Council for the Developmentally Disabled and served as the Chairman of the Committee on Deinstitutionalization and Institutionalization Reform. He also co-authored South Carolina's first plan for deinstitutionalization. Governor Campbell next appointed Dr. Birch to the S.C. Board of Examiners for Licensure of Professional Counselors, Associate Counselors, and Marital and Family Therapists. He was re-appointed to the S.C. Board by Governor Beasley and will serve as Vice President through 2001. He is also Chairman of the Marriage and Family Therapy Standards Committee that reviews the credentials of all applicants seeking licensing as marriage and family therapist in South Carolina. Dr. Birch has also been a recent S.C. delegate to the Annual Meeting of the Association of Marital and Family Therapy Regulatory Boards.

Although he is retiring from FMU, Dr. Birch will continue to impact the lives of many of my constituents through his service as interim pastor at South Carolina's Southern Baptist Churches. During the past 27 years, he has served as interim pastor 31 times, delivered 2,275 sermons. For seven of 27 years, he has filled a pulpit every Sunday. Dr. Birch has also conducted over 100 Family Life Conferences for Baptist, Methodist, Presbyterian, Episcopal and Catholic churches.

Throughout his 27 years in South Carolina, Dr. Birch has served, and continues to serve, his State and community tirelessly. Mr. Speaker, I ask that you join me in extending best wishes to him for a fulfilling retirement.

COMMEMORATING THE 125TH ANNIVERSARY OF LEVI'S JEANS

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Ms. PELOSI. Mr. Speaker, I would like to ask members of the House of Representatives to join me in celebrating the 125th Anniversary of an American legend: blue jeans. Or more specifically, Levi's jeans.

On this day, the 20th of May, 1873, a California businessman named Levi Strauss patented the process of putting rivets in blue denim pants for greater strength. He did so with the help of his business partner, Jacob Davis, a tailor from Nevada. From that moment on, Levi's jeans have been a part of daily life in America and around the world.

Initially, the jeans gained popularity for their superior quality and durability, but the invention was destined to become an international phenomenon because of what they came to represent: the spirit of personal freedom and originality.

For more than a century, Levi's jeans have been part of the cultural experience in the United States and overseas. From frontier independence to the fall of the Berlin Wall; from Woodstock to the White House; from the assembly line to casual Friday, blue jeans have been the uniform of individuality allowing the wearer to express his or her essential self.

It's remarkable to think that what was conceived as a garment for California gold miners has evolved into a global icon for independence. But then again, good ideas have a way of making themselves well-known to everyone. The familiarity we all share with blue jeans is proof of that.

On this, the 125th anniversary of the invention of Levi's, please join me in acknowledging the spirit of freedom and limitless possibilities that they symbolize.

H.R. 1872—SATELLITE REFORM LEGISLATION

HON. TOM BLILEY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. BLILEY. Mr. Speaker, two weeks ago the House overwhelmingly approved legislation to procompetitively privatize the intergovernmental satellite organizations—INTELSAT and Inmarsat—that dominate international satellite communications today. This legislation, H.R. 1872, garnered near unanimous support of the House, which demonstrates the bipartisan commitment of this body to enact this form of satellite reform legislation this Congress.

During the debate on the bill, there was considerable discussion on whether the bill could be ruled a ''taking'' of COMSAT's property. The House soundly rejected this notion. Absent from that debate, however, was an important commentary done by Mr. George L. Priest, former member of President Reagan's Commission on Privatization and now the Olin Professor of Law and Economics at Yale Law School. Mr. Priest conducted an analysis of the takings issue regarding H.R. 1872 which he reflected in a lengthy monograph. This monograph was circulated to Members prior to the debate on the bill and a similar version has been subsequently published in the May 11, 1998, issue of Space News in an article entitled ''Breaking Comsat's Hold.'' In summary, Mr. Priest concluded that COMSAT's takings argument ''will not hold legal water.''

I think the House would benefit from Mr. Priest's viewpoint on this important matter and I ask that it, along with a letter from the Washington Legal Foundation and a letter from United States Trade Representative Ambassador Charlene Barshefsky relating to a World Trade Organization issue discussed in the debate, be included in the CONGRESSIONAL RECORD at this point.

[From Space News, May 11, 1998]

BREAKING COMSAT'S HOLD

(By George L. Priest)

In recent weeks, several commentators including Comsat and supporters such as Nancie G. Marzulla in an op-ed piece entitled ''Deregulation or Plain Old Theft,'' Washington Times, April 27, have argued that legislation introducing competition in the international telecommunications satellite industry constitutes a taking under the U.S. Constitution's 5th Amendment, which would require the government to compensate Comsat for all its losses if Congress has the nerve to pass the bill.

In principle, I applaud the defense of private property rights against government intrusion. But Comsat and Ms. Marzulla mistake protection of property rights with the protection of monopoly and confuse the defense of investor expectations with the deregulation of a telecommunications monopoly to expand services and enhance consumer welfare.

Comsat was created by the Satellite Act of 1962, which, like much activist legislation of that era, derived from the view that government-controlled investment buttressed by heavy regulation was superior to private-market initiative in developing industries. Indeed, the Satellite Act took this thinking to the next level: If heavy regulation by the U.S. government was needed for U.S. satellite investment, then heavier, worldwide intergovernmental regulation was needed for international satellite investment.

Thus, the Satellite Act tackled the problem of ''too few satellite communications facilities'' by establishing Comsat as the U.S. participant in an international satellite venture known as Intelsat.

Intelsat, in turn, is owned mostly by government-owned or protected telephone monopolies. In essence, Intelsat controls satellite facilities that possess dominant positions over much of the world to which Comsat has exclusive—which is to say, monopoly—access in the United States.

Comsat and Intelsat, in fact, are among the last vestiges of exclusive governmental monopolies, at least in the United States. They have retained their near-monopoly position despite the general deregulation of industry that began in the late 1970s and 1980s in the United States, not to mention the vast privatization of government enterprise proceeding worldwide.

Intelsat operates the world's largest satellite fleet, comprising 24 satellites in prime geostationary orbital locations. Moreover, Intelsat and Comsat enjoy a host of competitive advantages because of their intergovernmental or quasi-governmental status.

Intelsat is completely immune from U.S. antitrust laws. It has preferential access to new orbital locations, and is exempt from myriad U.S. Federal Communications Commission regulatory requirements that apply to private satellite competitors.

In addition, Intelsat and Comsat have competitive advantages by virtue of Intelsat's ownership structure. Intelsat's owners have a financial stake in denying overseas access to competitors. Each use of a private, international satellite to access a foreign country reduces the financial dividend from satellite services that would otherwise flow to that country's Intelsat signatory. Private U.S. satellite companies, as a consequence, continue to be shut out of many foreign markets.

Within the last decade and a half, most American consumers has received direct and dramatic benefits from the breakup of the AT&T monopoly, a breakup which gave rise to an extraordinary flowering of new telecommunications services. Unleashing competition in the international telecommunications satellite industry holds similar promise.

The neglect of satellite competition, however, appears to have ended. The U.S. House of Representatives May 6 passed legislation sponsored by Rep. THOMAS J. BLILEY (R-Va), chairman of the House Commerce Committee and Rep. EDWARD J. MARKEY (D-Mass.), ranking minority member of the committee, that would require Comsat to compete in the satellite market stripped of its government-conferred privileges and immunities.

Comsat has battled these efforts, claiming that the legislation constitutes a breach of the 1962 Satellite Act contract, an unfair disappointment of reasonable investor expectations and, most dramatically, a compensable taking under the 5th Amendment. In rhetoric, these appear to be good conservative positions: All conservatives believe in protecting investor expectations and compensating victims of breach of contract or of governmental takings. These principles, however, are horribly misapplied with respect to Comsat and Intelsat.

Every monopoly in history has complained about damage from competition.

Indeed, Comsat's complaints could be taken verbatim from the 1602 Case of Monopolies in which the person to whom Queen Elizabeth had granted a monopoly over the sale of playing cards protested when the English Parliament introduced competition.

Standard Oil back in 1911 complained about impairment of contracts and disappointment of expectations when the Justice Department sought to break it up. The courts in 1602 and in 1911 rejected those arguments, establishing and encouraging the competitive economy we enjoy today.

It is not conservative policy to protect the property rights of a monopolist. From Adam Smith to the Chicago School more recently, true conservatives know the benefits of the maximum competitive order, compelling the break-up of monopolies or cartels to engender the most vigorous competition possible.

The Bliley-Markey legislation may not go far enough in this regard.

Although the legislation appropriately encourages the break-up of Intelsat, it does not specify the number of competing entities to result (three or four are a minimum to establish long-term competition), and the deadline it sets for the break-up—January 2002—is unnecessarily protracted.

Once agreement is reached, Intelsat could be broken up within short months, unleashing competitive energies immediately. Nevertheless, the bill's reduction of Comsat's governmental privileges and the opening-up of potential entry are surely important first steps.

The notion that this legislation violates the 5th Amendment will not hold legal water. The 1962 Satellite Act contains a provision that reserves the right of Congress to repeal, alter or amend the act. Even without this provision, this case is far different from the recent decision—loudly invoked by Comsat—in which the Supreme Court held that various savings and loan associations could sue the government for breach of contract when Congress enacted the Federal Institutions Reform, Recovery, Enforcement Act of 1989.

In the savings and loan cases, in order to induce a solvent savings and loan to take over one that had failed, the Federal Home Loan Bank Board promised a favorable accounting treatment that made the acquisition profitable. Congress later renounced the accounting treatment. The Supreme Court

held that, in the earlier contract, the government had expressly assumed the risk of the regulatory change that Congress subsequently enacted.

There is no parallel with respect to international satellites. One cannot construe the 1962 Satellite Act as a governmental assumption of all risks of subsequent regulatory changes with regard to international satellites. This is particularly obvious when Congress incorporates into a law as it did in the Satellite Act a provision reserving the right to repeal, alter or amend the law.

It is an interesting but unanswerable historical question whether the international telecommunications satellite industry would be more advanced and developed today if Congress had kept out of the business in 1962 and allowed the private market to develop on its own. I believe it would, though that is largely beside the point now.

The conservative (as well as liberal) agenda here, as in all other areas of economic life, is for the U.S. government and governments around the world to reduce their regulatory role, especially where that role is to protect an entrenched monopoly.

Congress must withdraw the deadening hand of the 1962 Satellite Act and introduces maximum competition in the international telecommunications satellite industry to the benefit of all consumers.

WASHINGTON LEGAL FOUNDATION,
Washington, DC, May 5, 1998.

Hon. TOM BLILEY,
Chairman, Committee on Commerce, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN BLILEY: This is in response to your letter requesting a clarification of WLF's views regarding the ''Communications Satellite Competition and Privatization Act'' in light of concerns that WLF's views have been mischaracterized.

I want to make it very clear that the Washington Legal Foundation does not in any way oppose your bill or in any manner support amendments to your bill.

WLF does not engage or participate in any lobbying activity whatsoever. In fact, some members of WLF's own Advisory Boards disagree with WLF's legal analysis of the Takings Clause in connection with this legislation.

Unfortunately, when we sent our analysis to the Members who requested it, we did not anticipate that it would be used as the basis for any legislative tactics or strategy which would oppose your satellite reform bill. We take no legislative position whatsoever.

We are grateful for your leadership on free enterprise issues and appreciate the opportunity to clarify this matter with you.

Sincerely,

DANIEL J. POPEO,
General Counsel.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE,
Washington, DC, February 12, 1997.

Mr. FREDERICK A. LANDMAN,
President and Chief Executive Officer, PanAmSat Corporation, Greenwich CT.

DEAR MR. LANDMAN: I am writing in reply to a letter of January 31, 1997, from your legal counsel, regarding the negotiations on basic telecommunications services at the World Trade Organization. The U.S. goal in these negotiations is to strengthen the ability of the U.S. satellite services industry to compete globally, and on a level playing field, with the inter-governmental satellite services organizations and with satellite service providers of other countries.

The United States has taken a number of steps to make certain that our key trade partners provide market access for satellite-based delivery of basic telecom services. Based on a note issued by the chairman of the negotiations in November, 1996, which has become part of the formal record of the proceedings, we have clarified the scheduling approach with regard to satellites. As a result, close to forty countries have made offers that would provide full market access for satellite-based delivery of all scheduled services, on an immediate or phased-in basis.

WTO members that make specific commitments on satellites will be subject to allocating and assigning frequencies in accordance with the principles of most-favored-nation and national treatment, as well as in accordance with the requirement for domestic regulations in the General Agreement on Trade in Services. Almost all of the countries making full satellite commitments have also adopted the reference paper on pro-competitive regulatory commitments. As a result, they will be obligated to provide additional regulatory safeguards with respect to allocation and use of radio frequencies.

A successful agreement on basic telecom services would also obligate those countries which have not made satellite commitments to provide treatment no less favorable to satellite service providers of the United States than the treatment provided to service suppliers of other countries. This would apply, for example, to how WTO members reach decisions regarding new market access arrangements involving service suppliers of other countries.

I share your deep concern regarding the possible distortive impact on competition in the U.S. satellite services market of certain proposals for restructuring INTELSAT. The United States has proposed a restructuring of INTELSAT that would lead to the creation of an independent commercial affiliate, INTELSAT New Corporation (INC). If made independent, the United States believes that the creation of INC will enhance competition and help ensure the continuation States believes that the creation of INC will enhance competition and help ensure the continuation of INTELSAT's mission of global connectivity for core services. As you are aware, however, many INTELSAT members are resisting the idea of independence for INC and we believe that a failure to achieve independence could adversely affect competition in the U.S. satellite services market. In the WTO negotiations we have taken pains to preserve our ability to protect competition in the U.S. market.

Our legal conclusion, for which there is a consensus among participants in the WTO negotiations, is that the ISOs do not derive any benefits from a GBT agreement because of their status as treaty-based organizations. The status of ISOs was discussed in detail in the GBT multilateral sessions. No delegation in the GBT negotiations has contested this conclusion.

We have also concluded that the United States cannot be forced to grant a license to a privatized ISO (should the ISO change its treaty status and incorporate in a country) or to a future privatized affiliate, subsidiary or other form of spin-off from the ISO. Existing U.S. communications and antitrust law, regulation, policy and practice will continue to apply to license applicants if a GBT deal goes into effect. Both Department of Justice and FCC precedent evidence long-standing concerns about competition in the U.S. market and actions to protect that competition. We have made it clear to all our negotiating partners in the WTO that the United States will not grant market access to a future privatized affiliate, subsidiary or other form of spin-off from the ISOs, that would likely lead to anti-competitive results.

It has always been U.S. practice to defend vigorously any challenge in the WTO to allegations that U.S. measures are inconsistent with our WTO obligations. There is no question that we would do the same for any FCC decision to deny or condition a license to access an ISO or a future privatized affiliate, subsidiary or other form of spin-off from the ISO. For your information, Section 102(c) of the Uruguay Round Agreements Act, specifically denies a private right of action in U.S. courts on the basis of a WTO agreement. Therefore, a FCC decision is not subject to judicial review in U.S. courts based upon a WTO agreement, such as the General Agreement on Trade in Services.

The United States is confident that it would win if a U.S. decision went to WTO dispute settlement. If the United States did not prevail, however, we would not allow trade retaliation measures to deter us from protecting the integrity of U.S. competition policy.

I appreciate the support your firms' representatives have expressed for our objectives in the WTO negotiations.

Sincerely,

CHARLENE BARSHEFSKY,
United States Trade Representative—Designate.

CONGRATULATIONS TO THE WINNERS OF THE EXCELLENCE IN BUSINESS AWARDS

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. RADANOVICH. Mr. Speaker, I rise today to congratulate Kuckenbecker Tractor of Madera, Boys and Girls Clubs of Fresno County, Bank of the Sierra of Porterville, Community Health System of Fresno, Duncan Enterprises of Fresno, Valley Public Television of Fresno, Denham Personnel Services of Fresno, Sherwood Lehman Massucco, Inc., Pearson Reality of Fresno, Gottschalks Inc. of Fresno, and Hall of Fame winner, Marilyn Hamilton of Fresno for being honored by the Fresno Bee with the Excellence in Business Award.

For the third year now, The Fresno Bee is recognizing some of the most respected names in business in the San Joaquin Valley. The businesses selected were chosen because of setting trends and serving customers unlike any other business. The winners were also recognized for success, growth, and setting high ethical and community standards. The judges for this event include Fresno Business people, a retired school principle, a member of the Kings County Board of supervisors and other selected community leaders.

Kuckenbecker Tractor of Madera is a family owned business that started in 1945. Richard Kuckenbecker took the small company that employed six people in Madera in 1961 and expanded it into a two-store operation in both Fresno and Madera that employs 40 people and generates $8 million in revenue.

The boys and Girls Clubs of Fresno County is a charitable organization that has a staff and volunteers who work with thousands of children each year. The organization is instrumental in providing educational, social and cultural reinforcement for children.

in 1977, Bank of the Sierra, Porterville was started with a single branch in Porterville by 17 Tulare County residents. It hosted 11 employees and garnered $1.5 million in assets.

Today, it has grown into the largest Valley-based bank with nearly $387 million in assets and more than 230 employees with nine branches and eight specialty credit centers.

Community Health Systemso Fresno is a $400 million-a-year organization that employs more than 4,700 people and has a medical staff of more than 1,100 physicians. Its chief executive officer is Dr. J. Philip Hinton.

Duncan Enterprises of Fresno makes paint and other items for hobbyists. The company expects a 37 percent growth in sales this fiscal year. Duncan Enterprises has been a fixture in Fresno for many years. The company brought the assets of a Massachusetts company and planned to move its operations to Fresno over six months. It worked with the production employees of the company to allow them to stay employed during the phase-out of the operation, while also coordinating training for them in resume writing and interviewing skills.

Valley Public Television of Fresno has operated the San Joaquin Valley's only public television station from its Fresno studios since 1977. It has continued over the years to provide services and programs to meet the diverse demands of the changing community. Colin Dougherty serves as the general manager and executive director of the station.

Denham Personnel Services of Fresno was founded 28 years ago by B. G. ''Bud'' and Jean Denham. It started off as a single office and has grown to include offices in Madera and Selma and a full-time staff of 14. On every working day of the year, an estimated 200–300 people in the Valley get up and go to work because they have been placed in jobs by Denham Personnel Services.

Sherwood Lehman Massucco, Inc. of Fresno is an executive search firm that has been finding top management talent for companies located in Central California since 1978. The firm believes in recruiting locally if possible, but has extensive experience in nationwide searches when the best candidate is not available in the Valley.

Pearson Realty of Fresno was founded in 1919 and has become one of the largest independently owned commercial real estate firms in the Valley. Its farm division is the largest in California and possibly the nation. The company pays a portion of net profit back to employees in the form of bonuses.

Gottschalks, Inc. of Fresno was founded in 1903 in downtown Fresno by Emil Gottschalk. The regional retailer has grown to 37 department stores and 22 specialty stores employing more than 5,500 people at sites in California, Nevada, Washington and Oregon. It is the only Central Valley-based company traded on the New York Stock Exchange, going public in 1986.

Hall of Fame winner, Marilyn Hamilton of Fresno had a sudden turn of events in her life almost 20 years ago when she became paralyzed in a hang-gliding accident. Frustrated by the clunky design of her wheelchair, Hamilton and two hangglider friends built their own lightweight chairs. They formed Motion Designs, which was bought by Sunrise Medical in 1986. Hamilton is now vice president of consumer development at Sunrise, and the Quickie wheelchair she designed has become an industry leader.

Mr. Speaker, it is with great honor that I congratulate these fine businesses and business leaders in the community. These exceptional businesses and business leaders were honored for their unique contributions to the business community and exemplary business skills. I ask my colleagues to join me in wishing Kuckenbecker Tractor of Madera, Boys and Girls Clubs of Fresno County, Bank of the Sierra of Porterville, Community Health System of Fresno, Duncan Enterprises of Fresno, Valley Public Television of Fresno, Denham Personnel Services of Fresno, Sherwood Lehman Massucco, Inc., Pearson Reality of Fresno, Gottschalks Inc. of Fresno, and Hall of Fame winner, Marilyn Hamilton of Fresno many more years of continued success.

CLASSIFICATION OF NATURAL GAS GATHERING LINES

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. SAM JOHNSON of Texas. Mr. Speaker, today I have introduced legislation, H.R.—to provide much needed certainty with respect to the proper depreciation classification of natural gas gathering lines. Natural gas gathering lines play an integral role in the production and processing of natural gas as they are used to carry gas from the wellhead to a gas processing unit or interconnection with a transmission pipeline. In many instances, the gathering network for a single gas field can consist of hundreds of miles and represents a substantial investment for natural gas processors.

The proper depreciation classification for specific assets is determined by reference to the asset guideline class that describes the property. Asset class 13.2, subject to a 7-year cost recovery period, clearly includes:

> . . . assets used by petroleum and natural gas producers for drilling wells and production of petroleum and natural gas, including gathering pipelines and related production facilities.

Not only are gathering lines specifically referenced in asset class 13.2, but gathering lines are integral to the extraction and production process. Nonetheless, it has come to my attention that some Internal Revenue Service auditors now seek to categorize natural gas gathering lines as assets subject to a 15-year cost recovery period under asset class 46.0, titled ''Pipeline Transportation.''

Over the past several years, I have corresponded and met with officials of the Department of Treasury seeking clarification of Internal Revenue Service policy and the issuance of guidance to taxpayers as to the proper treatment of these assets for depreciation purposes. These efforts have been to no avail. In the meantime, the continued controversy over this issue has imposed significant costs on the gas processing industry on audit and in litigation, and has resulted in a division of authority among the lower courts as to the proper depreciation of these assets. While it is not my intent to interfere with ongoing litigation, I do believe that legislation is needed to clarify the treatment of these assets under the Internal Revenue Code in order to provide certainty to the industry for tax planning purposes, and to avoid costly and protracted audits or litigation.

Accordingly, I have introduced legislation that would amend the Internal Revenue Code to specifically provide that natural gas gathering lines are subject to a 7-year cost recovery period. While I believe that this result should be axiomatic under existing law, this bill would eliminate any uncertainty surrounding the proper treatment of these assets. The bill also includes a proper definition of ''natural gas gathering lines'' to distinguished these assets from pipeline transportation for purposes of depreciation.

I urge my colleagues to support this important legislation.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NATURAL GAS GATHERING LINES TREATED AS 7-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (C) of section 168(e)(3) of the Internal Revenue Code of 1986 (relating to classification of certain property) is amended by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following new clause:

''(ii) any natural gas gathering line, and''.

(b) NATURAL GAS GATHERING LINE.—Subsection (i) of section 168 of such Code is amended by adding at the end the following new paragraph:

''(15) NATURAL GAS GATHERING LINE.—The term 'natural gas gathering line' means the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead to the point at which such gas first reaches—

''(A) a gas processing plant,

''(B) an interconnection with an interstate natural-gas company (as defined in section 2(6) of the Natural Gas Act), or

''(C) an interconnection with an intrastate transmission pipeline.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service before, on, or after the date of the enactment of this Act.

ON THE SPEAKER'S VISION FOR HEALTH IN THE 21ST CENTURY

HON. RICHARD K. ARMEY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. ARMEY. Mr. Speaker, I would like to insert in the record a transcript of a recent speech on the subject of health in the 21st century by the Speaker of the House, the gentleman from Georgia, Mr. GINGRICH.

As is so often the case, this speech by the gentleman, given to the American Association of Health Plans in mid-February, is full of insight.

At a time when the liberals and some doctors' associations are pressing for new government mandates on health insurance companies, and President Clinton is trying to achieve socialized medicine incrementally, it is important that we step back, as the Speaker wisely observes, and rethink the whole question of how to improve health and not just health care or health insurance.

In the coming health-care revolution, which promises to be an age of highly informed consumers and entrepreneurial doctors and insurers coming together to provide ever greater quality for customers at ever lower cost—in such an age the old prescriptions of regulation and mandates will be shown for the anachronisms they really are.

America's health-care system, for all its many faults, is still the best system in the

world when it comes to the quality of our doctors, our drugs, our devices, our treatments, our techniques, and our technologies.

But all of that progress would be threatened by the Democrats' ''Patients' Bill of Rights Act,'' H.R. 3605. This bill puts me in mind of medieval barbers applying leeches. It is one of the more misguided, irresponsible, and politically inspired bills I have seen. It is a breathtaking collection of costly mandates and grants of bureaucratic power. It would regulate the health insurance industry in every imaginable way. It would eliminate all but the most restrictive HMOs. It would enable nurses and doctors to go on strike. It would divert scarce health resources to lawyers and bureaucrats. It would make insurance unaffordable for millions of working Americans. It would swell the ranks of the uninsured. And it would impose innovation-stifling restrictions on the practice of medicine, just to name a few of its likely effects.

Happily, I have confidence that this Congress is not going to pass this backward bill, or anything like it. Members are increasingly aware of the dangers of such politically inspired legislation, and will, I think, warmly embrace the happier, freer vision for health in America outlined in the address of the gentleman from Georgia. I commend that address to the attention of all of my colleagues.

''HEALTH CARE REFORM IN 1998: WHAT CAN WE EXPECT FROM THE 105TH CONGRESS?''—KEYNOTE ADDRESS BY NEWT GINGRICH, AAHP 1998 POLICY CONFERENCE, FEBRUARY 22, 1998

Let me tell you where I think we are on health, and I want to start with a very simple planning model of eight words. I want to share this model with you because I think it's the heart of our current challenge in health. It's four words that are a hierarchy and then four words that are a straight line. The top word is ''vision,'' and I think this is the place we most have failed. What is our vision of America's future in health? And notice, I didn't say ''health care.'' I think when you say ''health care,'' you've already come down a layer of detail.

Our interests ought to be health and then, secondarily, health care. Take the example of diabetes. We know there are Indian tribes that have 50 percent diabetes rates. If we could save 45 of that 50 percent from needing kidney dialysis, we would lower the cost of health care because we would increase health. So it's very important at the vision level what words do you use, what do they mean, because that then defines all the other layers.

The second layer is strategies. What are your strategies for getting something done? For example, I am passionate about preventive care and wellness, and one of our strategies in Medicare reform was to begin to move towards more early screening, more preventive care, which we believe will ultimately save money, but is scored in this city as a cost. The Centers for Disease Control estimates if you had really effective screening and education on diabetes, it would save $14 billion a year. Yet you cannot get the Congressional Budget Office or the Office of Management and Budget to score that.

The third level is a project, and a project in this model is the real building block of management, but it's an entrepreneurial model, so I want to give you a definition. A project is a definable, delegatable achievement. That's a very important distinction.

The bottom line is tactics. What do you do every day? And tactics relate directly back to the top. For example, if you're interested in preventive care and wellness, one of the things you do every day to remind people that they have an obligation to check at least once a year to see how they are doing. One of the things you try to figure out is to remind diabetics they have an obligation every day, several times a day, to check their blood sugar, so that it's a very different model than the model we've traditionally had.

Now, coming off of tactics, I put four words in a straight line because they are a process; that is, they are not a hierarchy. They are all equally important, but they occur in a sequence, the words which we use for what we think is the essence of leadership, and they are very simple, but I think they apply directly to the challenge you all face: listen, learn, help, and lead. Now, we figured out in a democracy in the Information Age, the first job of leadership is to listen.

Now, we put ''learn'' second because we discovered two interesting phenomena about Americans. Americans will spend a lot of time with their eyes glazed over standing next to somebody at a cocktail party while that person babbles. That is not listening; that's patience. We also discovered that most Americans have a habit of paying very careful attention to their own arguments. If you get in an argument, you really listen to yourself when you argue. When it's the other person's turn, you pretend to listen, but you're actually restructuring your own argument. That's not listening; that's cheating.

What we are trying to do is what consultants describe as appreciative understanding. You have to understand what the other person is saying and appreciate why it is true for them. You don't have to agree with them. You don't have to sympathize, but you have to understand what they are saying. So you haven't finished your listening/learning phase until you know what they are saying and why they think it makes sense, even if you don't.

Now, in a rational world, as a general principle, if somebody will listen to you and learn from you, you help them. First of all, because they ventilate. You help them, second, because you put them in that position where you might ask them good questions, so they think thoughts they never had before; you open them up. You might have ideas they didn't have. You may have information to empower them that they didn't have. You may actually have authority or resources you can give to them.

In a rational world, if somebody knows you will listen to them, learn from them, and help them, they will ask you to lead. Now, what I usually do is I draw a line, then, from the word ''lead'' back up to ''vision.'' You then say: Here is my vision, here are my strategies, here are my projects, here are my tactics, and you immediately go back to listen and say, what do you think of them? Now I think that model applies exactly to where we are in health in America today.

Now, let me tell you the mistake I think we all make. When the Clinton administration came in, they saw a charge, which is very real, which is that we need to rediscuss health in America. Notice, I didn't say ''health care.'' This is going to be one of my first real efforts at redefining this dialogue. We should not talk about health care in America until we first finish talking about health in America, because they are not the same topic. And the minute you get into health care, you're already in a narrower and smaller future than if you start by discussing health, a subset of which is health care.

And I think the president was right in 1993 to say we need a dialogue. I think he was wrong in offering a solution that was a failed, centralized, bureaucratic model of control. And the country, after it thought about it for a year, decided that was the wrong answer. But I think where we all collectively failed is that at that point what we should have said is, okay, now can we go back to the original dialogue? And instead, what happened was all the folks were very busy. Everybody went back to their own game, most of which are at the level of a tactic or a project. So there is almost no vision-level discussion in America about health. And yet the most objective fact about health in America is that it is an obsolete model of delivery based on, first, you have to get really sick.

We need to return to the overall dialogue on health. Let me give you a very simple premise for that dialogue. The National War Labor Board, in 1943, for totally wartime-related, wage-and-price-control reasons, created the tax incentive and the way we now structure third-party payments. And this is entirely an artificial artifact. It makes no sense. If you were to actually sit down and say, let's design health for America, you would not say, if you pay all your own health costs, you get no tax deduction until seven percent of your income has been spent, but if you will go and work for a company, you can get a 100 percent. By the way, if you're self-employed, you won't get the 100 percent. It is all a historical anachronism.

In this national dialogue on health, we need to start with basic health research. We need to look at things like the National Institutes of Health database MEDLINE and the ability to create a computer-based system where any patient anywhere in the country can get access to any information, which is, frankly, going to drive doctors nuts because it's going to mean they are going to have patients with specialized diseases who know more about the state of the art than they do, and you're going to have a patient-led information system.

And the real reason we are having a fight over HMOs has nothing to do with quality of care; it has to do with power. This is a country which hates concentrations of power, and in a very real sense HMOs are suffering from the same challenge that any other concentration of power suffers from. Americans hate to be controlled. Remember, we did have a flag in the Revolutionary War on which was a snake, and which said: ''Don't tread on me.'' It's very close to the American model.

There is a wonderful new history by Paul Johnson called ''A History of the American People,'' which I recommended to all of you; he really captured the heart of American civilization. One of his lines is that in 1775, we were possibly the lowest taxed people in the history of the world, and we hated every penny. There was no sense of gratitude.

Now, the reason I'm suggesting this is, we are trying to design a health system for Americans. Americans believe it is their natural right, that they are endowed by their creator with the right to have total access, with the right to question any authority figure, with the right that if they don't like the first diagnosis, they get a second one. They need a ventilation point that is an authority figure that they can go to beat up the other authority figure that they are mad at. We need to ask: What are the patients' rights? What are their responsibilities? Do they agree those are their rights and their responsibilities? What's their ventilation point?

There is a power struggle between medical professionals and administrators, and that's a big part of what's happening with the HMOs because every time the medical doctor is mad, he or she explains to the patient that it's the HMO's fault. Or every time they can't do something the patient wants, they say, ''I would, but they won't let me.'' And so you have a real power struggle.

If you look, for example, at the PARCA bill, it is largely a design of all the professionals who now want their share of the pie, and it's their version of how they would redesign it if health care was a pork-barrel project. But what you need to understand is, that is a natural partner of historic evolution once you politicize these decisions.

I'm not up here today to say anybody is right. I'm up here today saying let's look at the whole country. The M.D. is going to be threatened because the truth is we can begin to turn into expert systems. We can begin to have more preventive care. We can begin to have more patient responsibility. We can begin to have more information to the patient.

All of that is going to threaten the medical doctor. But their problem now is going to be science and the Information Age, not the HMO administrator. The HMO administrator must recognize that if you don't have a very high-quality response, if you're not very customer oriented, and if you haven't built a very good response system for your customer so that they have a ventilation point where they can get a second opinion, where they can appeal to a higher authority against the authority that's made them mad, you're guaranteed to get political action; that the only way to avoid political action is to have a self-fine-tuning, a self-responding, and a self-evolving system that is customer-friendly and consumer oriented.

In addition, I would argue that if we are really at the vision level talking about the future of health in America, it's likely to be a different system than anything we've seen, that the ideal model is one that goes back to dramatically strengthening the patient, that the patient ought to have a lot more choices and more responsibilities.

I've always like the International Paper model where they list every doctor in the area and every hospital in the area, and they say, here is how much they cost, and here is their background, and, by the way, we'll pay 100 percent of the median price. Go to anybody you want to. Now, if you want to go to a more expensive doctor, fine, you pay the additional costs. But it begins to dramatically transfer knowledge and power and responsibility.

Dr. Tom Coburn, who serves as a Member of Congress for Oklahoma, came up to me at our retreat in Williamsburg, and he said, I think we ought to reapply free-markets principles to health care; and being a conservative, I promptly said, yes, what do you mean? I know it's right theoretically. I know Adam Smith is right theoretically, but what does it mean in the middle of this 1943 tax code, third-party payment, highly convoluted, big structure, HMO, provider-sponsored network, hospital-based, doctor-based, secondary professions—in this mess, this huge, complex ecosystem of health, what does ''free market'' mean?

He said, I'll tell you a true story. He said, during the break, I had a couple who were between jobs and they had lost their health coverage, but they had savings. She needed an operation. I gave her five surgeons and three hospitals to call. They negotiated. They got an $11,000 procedure for $5,000, but they paid in cash without paper work.

Now, that's a fairly astonishing number. My guess is all of you could find similar stories or already know similar stories. From my standpoint, what I want to do is say, so how do we maximize the rate of change? Because what the human genome projects is telling you and what lasers are telling you and what all the other breakthroughs are telling you is you're going to see a rate of change in health capabilities. And, again, I don't want to talk about health care yet. You're going to see a rate of change in health capabilities that is stunning.

So how do we maximize that rate of change? How do we maximize the citizens' access to knowledge, including their knowledge about their own responsibilities and knowledge about their own characteristics and knowledge about how to stay well rather than get sick? How do we maximize the ability to connect the citizen to the professional at the minimum cost with the maximum choice? How do we create feedback loops, both so that we know it's the right professional, and so if something goes wrong, we can check on it?

And if you could tomorrow morning take your HMO or take your health organization and find a way to have 100-percent deductibility for health, so that a person who paid out of their own pocket had exactly the same deductibility as a big corporation and said to all of your members, ''Here is basically a cafeteria plan. Which of these nine things do you like better?'' you would lose some of your mass purchasing power, but you would put back on their shoulders their responsibility. So you like the HMO? Fine. Come in and join one. You would rather go and buy it all on your own? Fine. Go buy it all on your own.

And what I'm suggesting is that where we need your help is not only doing better, and a lot of you represent some of the most enlightened and most aggressive and most patient-oriented and also most health-research-oriented people in the country. But I'm also asking you to take a little extra time, go back up to the vision level. Help us solve the big issues. Help us think about what do we mean in the 21st century by health in America. What should a citizen have access to? How do we maximize the rate of change?

And I'll just close with this thought. Health is not a problem. Health is an opportunity. Health will be the largest, foreign-exchange, income earner in the 21st century. If we have the best system of health on the planet, if we have the best research on the planet, if we provide the best care on the planet, as people get wealthier worldwide, they will come to America, either personally, or by electronic means, in order to have access to the finest health in the world.

We will earn far more money out of providing the best health capabilities on the planet than we will earn out of the motion picture industry, jet airplanes or computers, and we ought to see health as that opportunity—the opportunity to provide the best health for our own citizens and to provide the highest-paying jobs on the planet in a growth industry of enormous potential if we maximize the rate of change and innovation and bring to bear the best science we can as rapidly as we can.

And if we then educate our citizens into a knowledge-based model of caring for themselves, we will maximize their health and minimize their costs, and we will do so in a way that I think will be profoundly different than the current debate between more bureaucracy-less bureaucracy, more trial lawyers-fewer trial lawyers, and I think we need this much larger level dialogue in order to define where we want to go over the next 15 or 20 years.

DRUG-FREE AMERICA TASK FORCE AWARENESS

HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. NETHERCUTT. Mr. Speaker, as a Member of the Drug-Free America Task Force, I have had the opportunity to meet with numerous organizations and individuals interested in finding ways to reduce drug use. One of the studies that caught my attention was a study by the Center on Addiction and Substance Abuse. It stated that a 12-year-old who smokes marijuana is roughly 80 times more likely to use cocaine than one who does not, adults who as adolescents smoked marijuana are 17 more times likely to use cocaine regularly, and 60 percent of adolescents who use marijuana before age 15 will later use cocaine.

It seems to me, Mr. Speaker, that the key to reduce overall drug use is to find ways to curtail the number of our children who use drugs. As a parent, I realize that the lifestyle decisions my wife and I make will impact our children. Our children are fortunate that they have had a good example set for them, but there are many kids whose parents or other role models send them the wrong message that drugs are acceptable by their own drug use. I believe the government has an obligation to punish more severely those who influence the children of America by using or possessing drugs in their presence.

Mr. Speaker, the Save Our Children Act, which I am introducing today, sends a strong message that drug use or possession of drugs around children will not be tolerated. Under current law, there are enhanced penalties for the distribution of a controlled substance to persons under age 21 by persons over age 18 (21 U.S.C. 859); employment of persons under age 18 for violation of the Controlled Substance Act or unauthorized distribution to a pregnant individual (21 U.S.C. 861) and distribution or manufacturing of a controlled substance in or near schools, colleges or youth-centered recreational facilities (21 U.S.C. 860).

The Save Our Children Act, Mr. Speaker, fills a gap in our Sentencing Guidelines by directing the U.S. Sentencing Commission to enhance the sentences for the commission of a drug offense in the presence of a minor. While the Sentencing Commission is given discretion to amend the Sentencing Guidelines, the Save Our Children Act sets a minimum of two offense levels greater or 1 year whichever is greater for the first offense, and 4 offense levels greater or 2 years for a second offense.

I urge all my colleagues to consider becoming a cosponsor of my legislation.

WEST LIBERTY CLASSICAL ACADEMY HONORED BY DEPARTMENT OF EDUCATION

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. COYNE. Mr. Speaker, I rise to commend the students, faculty, and administration of West Liberty Classical Academy, whose outstanding performance was recently honored by the Department of Education and the National Association of State Coordinators of Compensatory Education. West Liberty is one of only 109 schools nationwide to be recognized by the Title I Recognition Program. The Title I Recognition Program honors schools that have set and reached high student achievement goals, fostered professional development, and built partnerships with parents and the community.

West Liberty Classical Academy is a magnet middle school located on the South side of Pittsburgh. Using a team approach, the staff plans interdisciplinary lessons like Classical Studies, African-American history, and Contemporary Crafts. They also created an 8th period every Wednesday so that students could participate in the band and orchestra ensemble, or choose among a journalism program, the science club, the garden club, the hiking club, creative writing lessons, or the drama club. The students also participate in School-to-Work activities in which they visit senior citizen centers, a neighborhood school for handicapped children, several area elementary schools.

Parents are an integral part of the learning experience at West Liberty. A ''Computer Night Live'' gives parents and students the opportunity to learn to use computers. Parents and children can also work on their math skills during ''Family Math Night.''

Thanks to the effort of teachers, students, administrator, and parents, West Liberty provides a quality learning experience while living up to its school motto, ''Safe and Secure.'' I commend West Liberty Classical Academy and the Pittsburgh Public School System for their accomplishments.

THE FEDERAL FINANCIAL ASSISTANCE MANAGEMENT IMPROVEMENT ACT OF 1998

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. PORTMAN. Mr. Speaker, I rise today to introduce The Federal Financial Assistance Management Improvement Act of 1998, legislation to streamline and improve the federal grant process.

I'm sure all of us have heard from state and local governments or non-profit organizations in our districts who have grown frustrated with the federal grant application process. Most recently, I have heard concerns express from around the country about the implementation of the Drug-Free Communities Act, legislation I sponsored that was enacted last year. Anyone who has attempted to apply for a federal grant has grown frustrated by the miles of red tape, regulations and duplicative procedures they encounter. Applying for the grant is just the beginning of the problem—the administrative and reporting requirements attached to certain grants often make potential recipients wonder whether to apply for funding in the first place.

The legislation we have introduced addresses these concerns. It requires relevant Federal agencies, with oversight from OMB, to develop plans within 18 months that do the following: streamline application, administrative, and reporting requirements; develop a uniform application (or set of applications) for related programs; develop and expand the use of electronic applications and reporting via the Internet; demonstrate interagency coordination in simplifying requirements for cross-cutting programs; and set annual goals to further the purposes of the Act.

Agencies would consult with outside parties in the development of the plans. Plans and follow-up annual reports would be submitted to Congress and the Director of OMB and could be included as part of other management reports required under law.

In addition to overseeing and coordinating agency activities, OMB would be responsible for developing common rules that cut across program and agency lines by creating a release form that allows grant information to be shared by programs. The Act sunsets in five years and the National Academy for Public Administrators (NAPA) would submit an evaluation of the Act's effectiveness just prior to its sunsetting.

The bill builds on past efforts to improve program performance through the Government Performance Results Act and to reduce federal burdens through the Paperwork Reduction Act and Unfunded Mandates Reform Act. It has been endorsed by state and local organizations such as the National Governors Association, the National Conference of State Legislators, the National Association of Counties, and the National League of Cities. Identical legislation, sponsored by Senators GLENN and THOMPSON, was recently reported out of the Senate Government Affairs Committee.

This is a good government measure that will make it easier to interact with our federal government, and result in cost savings for grant applicants and federal agencies.

I want to thank the gentleman from Maryland, Mr. HOYER, and the other original cosponsors for joining me in this bipartisan effort and I encourage my colleagues to support the bill.

THE 100TH ANNIVERSARY OF THE NEW JERSEY FIREMEN'S HOME, BOONTON, MORRIS COUNTY, NEW JERSEY

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to commemorate the New Jersey Firemen's Home located in Boonton, New Jersey on the occasion of their 100th anniversary. This anniversary marks the culmination of a long, proud history of providing housing for retired, disabled and indigent firefighters of all ages in the State of New Jersey.

The firefighter's home was the vision of Bird Spencer, President of the New Jersey Firemen's Association. A couple of years before the turn of the century, at the nineteenth annual New Jersey State Firemen's Association convention, President Bird Spencer addressed the need of suitable housing for the state's firemen. He promised that he would make an effort to obtain legislation for the purchase and building of such a place.

Early records indicate that on April 2, 1898 the New Jersey Firemen's Home was incorporated by the New Jersey Senate and General Assembly and on June 27, 1898 the Firemen's Home was purchased.

On June 23, 1900, President Bird Spencer's promise was realized as the doors of the New Jersey Firemen's Home were officially opened during a dedication ceremony attended by Governor Voorhees. In September 22, 1900, the first two New Jersey firemen from Paterson, New Jersey entered the home as the first residents.

For over a century the Firemen's Home has offered housing for any paid or volunteer firefighter who has served at least one year on a department, or who was injured while on duty. Since its inception, the New Jersey Firemen's Home has housed approximately 1,775 men. Some have been guests others have been long-time residents. Today the home is operated by a twenty-three member board and the staff is made up of one or two firefighters from each county in the State of New Jersey.

Mr. Speaker, throughout its long history, the New Jersey Firemen's Home has provided a place to live for retired and injured firefighters from across the state. I ask you, Mr. Speaker, and my colleagues, to please join me in commemorating the 100th anniversary of the New Jersey Firemen's Home.

CENTENNIAL ANNIVERSARY OF THE CITY OF PORT ARTHUR, TEXAS

HON. NICK LAMPSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. LAMPSON. Mr. Speaker, I rise to recognize the Centennial Anniversary of the City of Port Arthur, Texas and request that the following Proclamation be made a part of the CONGRESSIONAL RECORD.

PROCLAMATION

Whereas Arthur E. Stilwell of Rochester, New York founded the City of Port Arthur on the western shoreline of Lake Sabine in 1898, and

Whereas the City of Port Arthur has grown and developed into a major center of petrochemical manufacturing, shipping, and offshore oil exploration, and

Whereas the City of Port Arthur has been home to such industrial giants of the 20th Century such as Texaco, Inc., the Gulf Oil Company, Chevron Companies, Fina Oil and Chemical Corporation, Clark Manufacturing Corporation, Star Enterprise, Huntsman Corporation, Equistar Corporation, and

Whereas the City of Port Arthur has served not only the industrial and consumer needs of the United States and the world, it has also contributed significantly to the defense of the nation in World Wars I and II and other international conflicts by providing men and women as well as ship construction, merchant marine services, and a sea of petroleum products necessary to win those wars, and

Whereas the City of Port Arthur has been home to some of the most colorful people of the 20th Century including former Texas Governor Allan Shivers, Oscar award winner Leach Rhodes, former President of the American Medical Association Daniel ''Stormy'' Johnson, NFL Coach Jimmy Johnson, rock icon Janis Joplin, abstract expressionist Robert Rauschenberg, motion picture actress from Hollywood's Golden Era Evelyn Keyes, Congressional Medal of Honor recipient Lucian Adams, Texas businessman and Presidential appointee Mach Hannah, rhythm and blues great Ivory Joe Hunter, and hundreds more who have contributed not only to life in this community, but persons whose contributions are recognized not only to life in this community, but persons whose contributions are recognized throughout Texas, the nation and around the world.

Now therefore be it resolved that the City of Port Arthur, a progressive community proud of its multi-cultural heritage of 60,000

citizens, is hereby recognized on the occasion of its 100th anniversary.

NATIONAL BONE MARROW REGISTRY REAUTHORIZATION ACT OF 1998

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. YOUNG. of Florida. Mr. Speaker, I submit for the RECORD, this statement which should have followed my remarks in the House yesterday during Consideration of H.R. 2202, to Reauthorize the National Bone Marrow Donor Registry. Mr. Speaker, I rise in support of this measure and thank the Chairman of the Commerce Committee, Mr. BLILEY, and the Health Subcommittee Chairman, Mr. BILIRAKIS, for their efforts to help bring this legislation reauthorizing the lifesaving work of the National Marrow Donor Program to the floor for consideration.

H.R. 2202 will guide the National Marrow Donor Program into the next century by reauthorizing the program's core function of maintaining a bone marrow donor registry, strengthening efforts to increase minority recruitment, and improving patient and donor advocacy.

Mr. Speaker, with 218 cosponsors this bill enjoys the broad bipartisan support of our colleagues, as well as the support of the National Marrow Donor Program, the American Red Cross, the American Association of Blood Banks, the National Heart Lung and Blood Institute, and the Department of Health and Human Services.

The National Bone Marrow Donor Registry is an outstanding program that was created by the Congress to give hope to families where none would have otherwise existed. Since its establishment a little more than 10 years ago, this program has given life to thousands of people here and around the world.

It was on April 2, 1987 that I first testified before the House Commerce Committee on this issue. That was very early in my search for a home for a national bone marrow registry. In fact, that was very early in my education on the many issues that surrounded bone marrow transplantation. What I knew at the time, though, was that without a national registry, men, women, and children with leukemia and other fatal blood disorders would continue to die because there was no way to find unrelated marrow donors for them.

What I remember from that hearing 11 years ago was that there was nowhere within the Department of Health and Human Services to call home for a national registry. In fact, the Director of the National Institutes of Health testified after me that day saying there was no way that a national registry of unrelated volunteer donors would ever succeed. He told the Committee we would never find more than 50,000 people willing to take the simple blood test required to enter such a registry.

Mr. Speaker, while I already felt personally challenged to do something about creating a national registry, those remarks that day gave me the final incentive I needed to do all within my power to make this program a success.

A little over six months after that hearing, with a small appropriation I requested for the United States Navy, we activated National Marrow Donor Program. And on my birthday, December 16, 1987, an airplane took off from a snowy airfield in Milwaukee to deliver the first bone marrow to a dying child from North Carolina.

Today, Mr. Speaker, I proudly report to you that we proved those skeptics wrong. We now have a national registry of 3,134,601 people willing to donate their bone marrow to save a life. In addition, our national registry is linked with 14 other similar registries around the world to allow us to ship bone marrow across the oceans to save lives.

There are so many heroes that have made this program such a success that my time today does not allow me to name them all. There are my colleagues in the House and Senate who were willing to take a chance and support this program when the so-called experts said it couldn't be done. A number of our colleagues have been personally touched by the success of this program when they were called to donate bone marrow or when one or family members received the tragic news that they would die without a bone marrow transplantation.

There are many other heroes, some such as Admiral Bud Zumwalt. It was Admiral Zumwalt that I bumped into in the early months of 1987 when he was working the halls of Congress searching for the same thing as I was, a home for this national registry. Together we joined as a team with Dr. Bob Graves, a cattle rancher from Colorado, Dr. John Hansen, a rising young physician and researcher from Seattle, and Captain Bob Hartzman, a Navy doctor from Bethesda. Together we found a willing partner in the United States Navy whose Surgeon General said he would give us a federal home for this great national program.

Then Mr. Speaker, there are the countless heroes around our nation who are the volunteers willing to be a part of the national registry and the patients who have undergone bone marrow transplants and have helped us learn and improve the process with each and every procedure. There are the families who have given us the support and the energy to push ahead. And there are those who have sponsored the thousands upon thousands of recruiting drives all around our nation to help us build such a large and diverse registry.

The result of our work is a program that saves lives every day by matching patients and donors. Few federal programs have been as successful in such a short period of time and it is the involvement of the federal government that has been the key to this success. Prior to our establishment of a national registry, there was only a piecemeal network of independent local registries of all sizes, with very little intercommunication. With the support of Congress, we activated a national registry in September 1987 that now links together more than 98 donor centers, through which donors are recruited and entered into the registry, and 112 transplant centers, which work with the patients to complete the transplants. From a small, fragmented system of individual donor centers was born a true national and international treasure that is the National Marrow Donor Program and links the United States with eight foreign donor centers, 23 foreign transplant centers, and 14 national registries in foreign nations.

With the support of Congress, the United States Navy, and the Department of Health and Human Services, we have come a long way these past 11 years, but there is still a ways to go. With the number of bone marrow transplants using unrelated donors still increasing dramatically from year to year, it is obvious that we must continue to grow the size of the registry to save lives and give the largest number of children and adults the best possible opportunity to find a matched donor. While the likelihood of a patient identifying a fully matched unrelated donor has increased dramatically from 30 percent in 1989, to nearly 80 percent today, our continued commitment can help bring that figure closer and closer to 100 percent.

Much of the federal support we provide each year is for donor recruitment and education activities. With this federal support, we are maintaining the registry's remarkable rate of growth. Last year the donor rolls increased 17 percent by a total of more than 450,000.

Still, despite all of our good work, we have a ways to go to ensure that all ethnic groups have the best possible chance of finding a matched donor. The federal resources we began earmarking for minority recruitment beginning in 1991 have made a tremendous difference in the rate at which we have been able to increase minority participation in the program. In fact, the number of minority donors in the national registry have increased by 140 percent in the past four years, a rate far greater than the growth of the overall registry. As a result, there has been a corresponding 140 percent increase in the number of minority patients receiving life-saving transplants over the past four years. More minority patients received transplants last year then in the program's first seven years combined.

Mr. Speaker, as I have said time and time again, the key to the success of the National Marrow Donor Program is people—people who are willing to save a life by donating a small amount of their bone marrow. Unfortunately, people alone have not made this program the success that it is today. Without the federal support Congress has provided the National Marrow Donor Program over the past 11 years, we would still have a fragmented network of donor centers each sponsoring bake sales and other fund raising drives to pay for the testing of donors. Without federal support, it would be virtually impossible to maintain, let alone continue to increase the donor rolls of the national registry. With an attrition rate of just 5 percent, the national program will have to recruit more than 150,000 donors per year just to maintain the current size of the national registry.

Suffering the greatest from any reduction in our federal support for this program, would be the minority groups that we are working so hard to recruit and continue to be underrepresented in the national registry.

Our efforts here and now must build on our success, taking what we have learned since the program's establishment and applying this to improve our future. Likewise, we must recognize that we have learned of ways in which the program could do a better job. This is the goal of H.R. 2202.

The program's success is grounded in the more than 3 million donors who have volunteered to donate their bone marrow, in the coordinated system of donor, transplant and recruiting centers that has grown around the registry, and in the increased awareness of bone marrow transplantation. My legislation

will continue this by supporting further recruitment, coordination and educational activities.

However, if there is one thing we can agree on above all else, it is the fact that without continuing to increase the numbers of minority donors on the Registry, patients of these groups will continue to face a greater difficulty in finding a matched unrelated donor. For this reason, H.R. 2202 places a special emphasis on the need to increase potential donors of racial and ethnic minority heritage and makes this the priority of the program's recruitment efforts.

We have also learned a lot about the needs of patients and their families as they face the challenge of finding an unrelated donor match for their loved one. H.R. 2202 formally establishes an Office of Patient Advocacy and Case Management within the program to provide individualized services for patients requesting assistance. The office will provide information and coordinate all aspects of the search and transplantation process to ensure the needs of the patient are being met. While much of this work is already being done by an office within the program, H.R. 2202 builds on these efforts by codifying the office and granting it additional authority recommended by the Senate in legislation approved by that body in 1996.

My wife Beverly and I have met with and befriended hundreds of donors, patients, and their families from all over our nation. To each of these patients, I promise that I will continue to do all that I can to ensure that they have the best possible chance to find a donor. Unfortunately, some of these families never found a donor before it was too late. Many others, however, found their miracle match and they are alive and doing well today because of the living medical miracle that is this national registry.

There is nothing I have done in public service that I am more proud of than establishing the National Marrow Donor Program. Every member of Congress should share that pride as they are a part of a great federal program that works. The measure of this program's value is the lives it saves throughout our nation and throughout our world. As we continue to increase the number of life-saving transplants that take place each year, we know that our work is not yet finished and that there are more lives to save. In making tough budgetary decisions, Congress must measure the value of each and every program to the American taxpayer. With that as our test, their can be no disputing the success of the National Marrow Donor Program because there is no higher priority then giving someone back their life.

Mr. Speaker, I appreciate the Congress' strong support for this program and for my legislation that will enable us to continue on with our life-saving work for the next five years. That commitment to this program is evident from the special joint House-Senate hearing recently held and by the willingness to work together, House and Senate, to expedite the passage and enactment of H.R. 2202. On behalf of all those donors and patients still awaiting their opportunity to unite in the most special of ways, I say thank you to all my colleagues. And on behalf of those families who will experience the second chance to enjoy their life with a child, with a husband or wife, or with a brother or sister, I say thank you for being one of the countless heroes throughout the short history of this program. Together, day after day, we will continue to give the most precious gift of all, here and abroad, the living gift of life.

THE SENIOR CITIZENS' FREEDOM TO WORK BILL

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. SAM JOHNSON of Texas. Mr. Speaker, I rise today to introduce legislation that will eliminate the so-called ''Social Security Earnings Test.'' Under current law, our senior citizens aged 65–69 can earn only $14,500 before they lose $1 in Social Security benefits for each additional $3 of earnings. This test is unfair, discriminatory, and adversely affects our country's economy. The Social Security Earnings Test must be eliminated.

The Social Security Earnings Test is unfair and inappropriate because it imposes a form of a ''means'' test for a retirement benefit. As we all know, Social Security benefits have been earned by a lifetime of contributions to the program. American workers have been led to regard Social Security as a government-run savings plan. Indeed, their acceptance of the 12.4 percent Social Security payroll tax has been predicated on the belief that they will get their money back at retirement age. Thus, most Americans do not accept the rationale that the return of their money should be decreased just because they continue to work.

Additionally, the Social Security Earnings Test discriminates against senior citizens who must work in order to supplement their benefits. Currently, income from investments does not affect the amount of Social Security benefits that a senior citizen receives. It simply does not make any sense to treat less favorably income from work than income from investments. Clearly, the Social Security Earnings Test is inequitable to our nation's senior citizens who are in the greatest need of additional income.

The Social Security Earnings Test also negatively affects work incentives. The disincentive effect is magnified when viewed on an after-tax basis. Senior citizens who work lose a large percentage of their Social Security benefits due to the Social Security Earnings Test, but they must also continue to pay Social Security taxes, and probably federal and state income taxes as well. The Social Security Earnings Test forces senior citizens to avoid work, to seek lower paying or part-time work or to seek payment ''under the table.''

In addition to being complicated and difficult for the individual senior citizen to understand, the Social Security Earnings Test is complex and costly for the Government to administer. For example, the test is responsible for more than one-half of retirement and survivor program overpayments. Elimination of the Earnings Test would help minimize administration expenses, and recipients would be less confused and less tempted to cheat on reporting their earnings.

Finally, repealing the Social Security Earnings Test would greatly aid our country's economy. Our senior citizens would be likely to work more and the American economy would benefit from their experience and skills. The combined increase in the amounts that they would pay in Social Security and other taxes, as well as the additional contribution to our Gross National Product, would largely offset the increase in benefit payments. For decades, our senior citizens worked and dutifully paid their Social Security taxes, it is only fair that they fully receive their Social Security benefits when they are at the retirement age.

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Senior Citizens' Freedom to Work Act of 1998''.

SEC. 2. ELIMINATION OF EARNINGS TEST FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

Section 203 of the Social Security Act (42 U.S.C. 403) is amended—

(1) in subsection (c)(1), by striking ''the age of seventy'' and inserting ''retirement age (as defined in section 216(l))'';

(2) in paragraphs (1)(A) and (2) of subsection (d), by striking ''the age of seventy'' each place it appears and inserting ''retirement age (as defined in section 216(l))'';

(3) in subsection (f)(1)(B), by striking ''was age seventy or over'' and inserting ''was at or above retirement age (as defined in section 216(l))'';

(4) in subsection (f)(3)—

(A) by striking ''33⅓ percent'' and all that follows through ''any other individual,'' and inserting ''50 percent of such individual's earnings for such year in excess of the product of the exempt amount as determined under paragraph (8),''; and

(B) by striking ''age 70'' and inserting ''retirement age (as defined in section 216(l))'';

(5) in subsection (h)(1)(A), by striking ''age 70'' each place it appears and inserting ''retirement age (as defined in section 216(l))''; and

(6) in subsection (j)—

(A) in the heading, by striking ''Age Seventy'' and inserting ''Retirement Age''; and

(B) by striking ''seventy years of age'' and inserting ''having attained retirement age (as defined in section 216(l))''.

SEC. 3. CONFORMING AMENDMENTS ELIMINATING THE SPECIAL EXEMPT AMOUNT FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

(a) UNIFORM EXEMPT AMOUNT.—Section 203(f)(8)(A) of the Social Security Act (42 U.S.C. 403(f)(8)(A)) is amended by striking ''the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable'' and inserting ''a new exempt amount which shall be applicable''.

(b) CONFORMING AMENDMENTS.—Section 203(f)(8)(B) of the Social Security Act (42 U.S.C. 403(f)(8)(B)) is amended—

(1) in the matter preceding clause (i), by striking ''Except'' and all that follows through ''whichever'' and inserting ''The exempt amount which is applicable for each month of a particular taxable year shall be whichever'';

(2) in clauses (i) and (ii), by striking ''corresponding'' each place it appears; and

(3) in the last sentence, by striking ''an exempt amount'' and inserting ''the exempt amount''.

(c) REPEAL OF BASIS FOR COMPUTATION OF SPECIAL EXEMPT AMOUNT.—Section 203(f)(8)(D) of the Social Security Act (42 U.S.C. (f)(8)(D)) is repealed.

SEC. 4. ADDITIONAL CONFORMING AMENDMENTS.

(a) ELIMINATION OF REDUNDANT REFERENCES TO RETIREMENT AGE.—Section 203 of the Social Security Act (42 U.S.C. 403) is amended—

(1) in subsection (c), in the last sentence, by striking ''nor shall any deduction'' and

all that follows and inserting ''nor shall any deduction be made under this subsection from any widow's or widower's insurance benefit if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60.''; and

(2) in subsection (f)(1), by striking clause (D) and inserting the following: ''(D) for which such individual is entitled to widow's or widower's insurance benefits if such individual became so entitled prior to attaining age 60,''.

(b) CONFORMING AMENDMENT TO PROVISIONS FOR DETERMINING AMOUNT OF INCREASE ON ACCOUNT OF DELAYED RETIREMENT.—Section 202(w)(2)(B)(ii) of the Social Security Act (42 U.S.C. 402(w)(2)(B)(ii)) is amended—

(1) by striking ''either''; and

(2) by striking ''or suffered deductions under section 203(b) or 203(c) in amounts equal to the amount of such benefit''.

(c) PROVISIONS RELATING TO EARNINGS TAKEN INTO ACCOUNT IN DETERMINING SUBSTANTIAL GAINFUL ACTIVITY OF BLIND INDIVIDUALS.—The second sentence of section 223(d)(4) of such Act (42 U.S.C. 423(d)(4)) is amended by striking ''if section 102 of the Senior Citizens' Right to Work Act of 1996 had not been enacted'' and inserting the following: ''if the amendments to section 203 made by section 102 of the Senior Citizens' Right to Work Act of 1996 and by the Senior Citizens' Freedom to Work Act of 1998 had not been enacted''.

SEC. 5. EFFECTIVE DATE.

The amendments and repeals made by this Act shall apply with respect to taxable years ending after December 31, 1997.

THE 75TH ANNIVERSARY OF THE TOWNSHIP OF MINE HILL, MORRIS COUNTY, NEW JERSEY

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. FRELINGHUYSEN Mr. Speaker, I rise today to congratulate the people of the Township of Mine Hill, New Jersey as they commemorate the 75th anniversary of the incorporation of their community.

In the early years, Mine Hill centered around a diverse history of rich iron ore veins and active mining operations. The Delaware Indians, known as the Lenni Lenape were aware of the iron outcroppings and named the area Succasunny meaning ''black stone''. The settlers realized the potential and developed the ''black stone'' into a profitable commodity. Some of the mines date back to the Revolutionary War when iron ore was provided to nearby forges.

Because the iron ore was one of the finest quality and in such great abundance, mining, not farming became the primary industry in the area. This led to the development of the Village of Mine Hill. Mine Hill is also known for the Dickerson Mine, named after Governor Mahlon Dickerson, a resident of Mine Hill and Governor of New Jersey from 1815 to 1817. The Dickerson Mine was the first and oldest iron mine in the state.

The Township of Mine Hill is a small community of approximately 2.95 square miles, located in central Morris County. In 1993, this quiet community was recognized by the Federal government as having one of the best elementary schools in the country. The Canfield Avenue School was named a Blue Ribbon School which means that it placed in the top 200 schools in the Untied States in quality of education.

Once a prominent iron mining community, Mine Hill has kept its small town American identity. The 75th anniversary of Mine Hill's incorporation is a great achievement. It is a time for celebration and reflection for the residents.

Mr. Speaker, my fellow colleagues, please join me in congratulating the Township of Mine Hill Township on this important milestone.

IN OPPOSITION TO RIGGS AMENDMENT TO H.R. 6

HON. VINCE SNOWBARGER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. SNOWBARGER. Mr. Chairman, I rise to explain my opposition to the Riggs Amendment to H.R. 6, the Higher Education Amendments of 1998.

The principal purpose of our important civil rights reforms, now more than thirty years old, was to help eradicate systematic and structural racism. Our hope was to keep the government and its agents from treating people differently because of their race or ethnicity. As Martin Luther King, Jr. said the law cannot make us love one another. We can, however, work together to ensure that, at the very least, our government sees its citizens as individuals. Each one is unique and worthy of respect.

Affirmative action, which originally meant ensuring that all should have the opportunity to compete on their merits, has now become a persistent challenge to these principles of fairness. If our government, through quotas and set-asides, continues to treat Americans differently because of their race or ethnicity, it becomes even harder to eliminate racism wherever it festers.

The amendment to the Higher Education Act Reauthorization offered by Representative FRANK RIGGS was mostly consistent with these principles of fairness and equal opportunity for all. Representative RIGGS' amendment would have prohibited preferential admissions treatment based in whole or in part on the race, sex, color, ethnicity, or national origin of applicants by institutions of higher education. A special exemption was included in the amendment to exempt preferential treatment on the basis of affiliation with an Indian tribe by any tribally controlled college.

I opposed the amendment because I was concerned that Haskell Indian Nations University, which is located in my district, would be adversely affected by the amendment. Haskell Indian Nations University is the only federally owned and operated four-year institution for Native Americans in the country. Because the University is controlled by the Bureau of Indian Affairs and not by a tribe, I felt that it would not qualify for the exemption included in the Riggs amendment.

Additionally, I opposed this amendment because I believe that we must seek to end policies that discriminate. This cannot be done in a piecemeal fashion. We must reach out to all groups to ensure that all Americans have equal access to opportunities. Quotas and set-asides undermine our effort to secure this for everyone.

For these reasons, I opposed the amendment.

NORMAN THOMAS ELEMENTARY SCHOOL

HON. CIRO D. RODRIGUEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. RODRIGUEZ. Mr. Speaker, I rise today to celebrate the generous efforts of 560 Norman Thomas Elementary School students and staff in Freer, Texas, to collect thousands of cans and boxes of food for the Freer Food Bank. The school's venture helped stock the pantries of 70 neighbors in desperate need of food.

This good deed is especially remarkable because about two-thirds of the Norman Thomas Elementary School students qualify for free or reduced school lunches. Despite the personal challenges many of these students face they saw a need to help those less fortunate than themselves and learned a very valuable lesson while volunteering in their community.

For their efforts the school was recognized with a community award by the USA Weekend magazine sponsored by Make a Difference Day. The students and staff at Norman Thomas Elementary School have made a difference which will help feed people in their community. Volunteering in one's community sets a high standard for better living. And such a young group of individuals accomplishing community goals means Freer, Texas, will look forward to a fruitful future.

''MY VOICE IN OUR DEMOCRACY''

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. ABERCROMBIE. Mr. Speaker, I rise to commend Zachary Hicks, a student at Hawaii Baptist Academy in Honolulu, who recently won the 1998 Voice of Democracy broadcast scriptwriting contest for Hawaii.

Each year, the Veterans of Foreign Wars and its Ladies Auxiliary sponsor the Voice of Democracy contest to recognize writing and oratorical skills of students. Zachary Hicks related the democracy demonstrations of Tianamen Square in the People's Republic of China to the freedoms to enjoy and the need to exercise freedom of speech.

I would like to share the script with the House and America, Mr. Speaker, which I am submitting. I am certain Leon and Brenda Hicks, Zac's parents, as well as his teachers and fellow students at Hawaii Baptist Academy, have great pride in Zac and his accomplishment.

''MY VOICE IN OUR DEMOCRACY''

(By Zachary Hicks)

Not long ago, a number of young men and women broke out in protest of a government they did not believe in. With fear overpowered by conviction, these students stared communism in the face and said, ''We will no longer be shut up, pushed down, and unheard.'' That night in Tianamen Square, the cries for a democracy rang out loud and

clear, yet they soon would be replaced by different cries. With hearts of fire, the students would not back down to words of warning. The air of freedom was faintly tangible but soon dissipated as the piercing crack of gunfire drove fear back into the hearts of the young people. Shot down . . . beaten . . . imprisoned . . . in one way or another they were all silenced. And the freedom, once so close, was now ripped from their hands.

This tragedy can conjure up a lot of emotions. For me, all I can do is feel grateful. Surely I have taken for granted the freedom of a democracy. I have the privilege to stand up and not be pushed down. I don't have to look over my shoulder in fear every time I speak up about the government. I have a voice. But what is so beautiful about America's democracy is that this voice is just as important, just as valid as the next man's. Though led by presidents, governors, senators, and representatives, I have just as much power to speak out as they do. My voice matters.

Our forefathers designed the United States Constitution to keep the government from ever becoming so powerful, so tyrannical, that I no longer have the freedom to speak my mind. At the same time, the constitution keeps me in line and helps remind me of what is important to our democracy, so that I fight for ideas that are true, right, and noble.

Personally, I've only recently begun to see how powerful my voice is, even though it is just one. A project was assigned in my political science class in which I needed to interview various state representative and senators. I was surprised at how easy it was to schedule an appointment with an elected official. When I was sitting in the office of my representative, my eyes were opened to the power of my own voice. I used to believe that my voice meant nothing because I wasn't old enough to vote. But what is amazing to me now is that I'm able to walk straight into our state's capital building, climb a few stairs, enter right into an office of a senator or representative, and explain to them exactly what I believe and why I believe it. Not only that, our government allows what I say to be taken into consideration. I can persuade others to take up my passion, believe what I believe, and push for a change. Though funded in basic principles, democracy is not set in stone. If I don't agree with something. I have the ability to work to change it. America, the world's largest democracy, will take time to listen to what I have to say.

Because my voice in our democracy matters so much, I hold a tremendous respect for the United States of America. I see the value in a peaceful transition of leadership. I see the value of a ''majority rules'' policy. I see the value of my voice. Therefore, I will not sit back when I have such freedom in my grasp. I will use my voice to make our democracy a better place to be. In the words of Edward Everett Hale, ''I am only one, but still I am one . . I cannot do everything, but I can do something. . . and what I can do, I should do . . . and, with the help of God, I will do.''

INTRODUCTION OF THE ''NIGERIAN ADVANCE FEE FRAUD PREVENTION ACT OF 1998''

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. MARKEY. Mr. Speaker, today, I am joining with a bipartisan group of colleagues in introducing legislation to prevent further growth of the international crime, Nigerian Advance Fee Fraud.

Every day, thousands of Americans fall subject to get rich quick schemes. Unfortunately, Nigerian Advance Fee Fraud is a whole new era of scamming money out of innocent people. Known internationally as ''4-1-9'' fraud after the section in the Nigerian Penal Code which addresses fraud schemes, these scams have reached epidemic proportions.

As a personal target of such scams, I am introducing the Nigerian Advance Fee Fraud Prevention Act of 1998 to bring this swindle and its perpetrators into the forefront of the American public, and focus the Government on implementing a national and international strategy to combat these shams.

This form of bilk is widespread, targeting over 60 countries worldwide. The perpetrators of these hoax's don't discriminate when choosing their targets, everyone from small to large corporations, religious organizations, and individuals are all fair game to these criminals. I myself have been targeted four times by these flimflams in just over 7 months.

The perpetrators of this swindle will send letters to unknowing victims, mostly senior citizens, claiming that the Nigerian Government overpaid the Nigerian National Petroleum Corporation on a contract. Instead of giving the money back to the government, the scammer indicates they need a foreign bank account to deposit $50 million, of which 30% would remain in the victims' bank account for them to keep.

So, what is the actual scam? The scam does not actually require the transmission of a bank account number (although many victims obligingly provide it). The victim supplies a letterhead, which is used to forge letters of recommendation to the American Embassy for travel visas and it is also used to persuade other prospective victims.

They way they get money from the victims is much craftier. Victims are pressured into sending money for unforeseen taxes, fees to the Nigerian Government, and attorney fees. These fees can reach hundreds of thousands of dollars. The perpetrators of these scams often allege that the victim must travel to Nigeria in order to complete the transaction. If the victim is unable to travel to Nigeria, they proceed to demand more money from them for power of attorney fees and other associated taxes. Often when a victim does travel to Nigeria, the scammer explains to them that there is no need for a visa. In fact, a visa is required by the Nigerian Government. The perpetrators then bribe airport officials to bypass immigration, and use this illegal entry as leverage to coerce the traveler into releasing more money.

Violence and threats of physical harm may also occur. To date, 15 foreign businessmen and two United States citizens have been murdered in Nigeria in connection with a ''4-1-9'' scam. Perpetrators of these scams are rarely prosecuted or jailed by the Nigerian government, which is also suspected of playing a role in these schemes.

Money garnered from these schemes is used to fund other illegal activities, including drug trafficking or violent crimes. This is a growing concern to the international community, and among the thousands of Americans who fall victim to these scams.

The Nigerian Advance Fee Fraud Prevention Act of 1998 will direct the Secretary of State and the Secretary of the Treasury to jointly report on actions taken by the Nigerian Government in apprehending the perpetrators of 4-1-9 scams, efforts taken by the United States to inform American about such schemes, and other such actions which are or should be undertaken to end of these schemes, including the imposition of sanctions on the Nigerian Government.

50TH ANNIVERSARY OF THE WORLD HEALTH ORGANIZATION

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. GEJDENSON. Mr. Speaker, this year marks the Fiftieth Anniversary of the World Health Organization. I want to congratulate them, and everyone else who has joined in the fight against infectious disease around the world. I also congratulate Dr. Gro Harlem Brundtland, the recently-elected Director-General of the World Health Organization, who has announced her commitment to improving the lives and health of children around the world.

In the last five decades, human longevity worldwide has increased by more than 40% and the average life expectancy at birth rose from 46 years in the early 1950s to almost 65 years by 1996. These great strides forward in health would not have been possible without the efforts of WHO and their many local and international partners in the private, public and non-profit sectors.

In 1967, WHO started an ambitious effort to eliminate smallpox worldwide. At the time, no one believed that a disease which afflicted up to 15 million people annually could be eradicated in just thirteen years—but that's exactly what happened. According to WHO, if smallpox had not been eliminated in 1980, the past twenty years would have witnessed some 350 million new victims—roughly the combined population of the USA and Mexico—and an estimated 40 million deaths—a figure equal to the entire population of Spain or South Africa.

Today, close to 90% of children in the world are being reached by immunization services—a dramatic increase from the 5% vaccinated only twenty-five years ago. Two million deaths from measles alone are prevented worldwide every year by current immunization efforts. WHO, its Member States and international partners are conducting extensive immunization, treatment and prevention campaigns to end polio, malaria, tuberculosis, cholera, dracunculiasis, Chagas disease, and HIV/AIDS around the globe.

Unfortunately, this story is not entirely filled with happy tidings. Today, malnutrition is implicated in the deaths of seven million of the twelve million children who die of preventable causes each year. Many households around the world still lack access to safe drinking water and often use the same water supply for cooking and sanitation. Deaths from easily preventable, waterborne illnesses and the more elusive but equally deadly diseases like Ebola make the battle against infectious disease a war with many fronts.

To further complicate the picture, noncommunicable diseases like cancer and heart disease—the leading causes of death in the

United States and Europe—are making inroads into Africa, Asia and South America. WHO projects that deaths related to tobacco use over the next 30 years will rise from 4 million to 10 million by the year 2030, with 70 percent of these deaths occurring in developing countries.

The unfettered globalization of the tobacco market—which is dominated by U.S. companies—will cause untold devastation on the health of every citizen on the planet over the next few decades. We cannot stand idly by when we have the tools to stop such practices.

I am proud to be an original co-sponsor of the Bipartisan NO Tobacco for Children Act of 1998 which will establish an international ''code of conduct'' for U.S. tobacco companies selling their products abroad. If tobacco companies cannot market in a particular way to American children, they should also be prohibited from using those methods on children in other parts of the world.

HONORING THE GRACE BAPTIST CHURCH OF NANUET

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. GILMAN. Mr. Speaker, a great Baptist Church located within Rockland County of the 20th Congressional District of New York, will observe its bicentennial, as this County celebrates its 200th birthday.

In 1798 a small gathering of Baptists in Rockland County formally established what is today the Grace Baptist Church of Nanuet. This Church was instrumental in starting six new Baptist congregations in Rockland County and subsequently established the first Sunday School there in 1828.

A far-sighted and courageous action that this Church took on April 12, 1817, fifty years before President Abraham Lincoln's Emancipation Proclamation, was its declaration that members who owned slaves could no longer remain fellows of the Church.

The growth of the Grace Baptist Church over the past 200 years has kept pace with the growth of Rockland County. The current congregation is multi-ethnic with Caucasian, Afro-American, Hispanic, Asian, Korean, Haitian and Philippine congregation members. All these reflect the current cultural and ethnic composition of Rockland County.

This Church has been an important factor for the development of the Rockland community. Throughout the years it has been an invaluable community presence, making certain that it responds to the special needs of the population. It has been a social and religious institution that always acts in the best interests of the community.

I am certain that the Grace Baptist Church of Nanuet will keep up its good works, not only in spreading out its religious traditions and observances, but also promoting its religious teachings and morality in Rockland's community.

TRIBUTE TO ''BUCK'' LONG

HON. SONNY CALLAHAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. CALLAHAN. Mr. Speaker, on June 1, 1998, D.H. ''Buck'' Long will retire from his long-time service as President and General Manager of WKRG-TV, Inc., the CBS affiliate in my hometown of Mobile, Alabama.

For over 30 years, Buck has been an innovator in the broadcasting industry, always keeping his station on the cutting edge of technology. Furthermore, he has set an example for his peers and employees alike by giving much back to his community. Quite frankly, Buck's service to the Mobile area has been unrivaled in many ways.

Buck Long was born on April 9, 1929 in Spartanburg, S.C., where he attended Spartanburg High School. Soon after graduation, he moved to Mobile to attend Springhill College in 1947. As a student at Springhill, Buck worked part-time as a record librarian, station-break announcer and disc-jockey at WMOB Radio, which marked his first job in the broadcasting field to which his father had introduced him years before as a young child.

In 1950, Buck became the nighttime announcer and disc-jockey at WABB Radio where he became known as the host of ''Buck Back Room.'' With his ingenious business style and optimistic attitude, Buck sold his show to the listeners of Mobile who grew to appreciate and admire not only the show but also the announcer. In return for his hard work and success with the show, WABB promoted Buck to the position of full-time sales associate the following year and by 1955, he was named local sales manager at WABB.

After his initial success in radio, Buck left the station in 1957 and became an account executive with Jack Lewis Advertising. Two years later, in 1959, he joined the sales department at WKRG-TV. That year marked the beginning of what would turn into a long and dedicated relationship with the WKRG corporate family.

In 1967, Buck Long was promoted to local sales manager as a reward for his hard work. A few years later, he was elected Vice President, and later Senior Vice President, of WKRG. In 1982, Buck was once again elevated, this time to Executive Vice President and Station Manager. Finally, on January 1, 1986, the Board of Directors of AM-FM radio stations.

Throughout his distinguished career, Buck has always demonstrated his genuine concern for the Mobile community through his commitment to quality family programming. In addition, Buck has also believed the public deserves to be kept informed with a top notch news department and a public affairs division that is second to none. Along these lines, I would be remiss if I didn't mention one such program, *The Gulf Coast Congressional Report,* which has been a mainstay on WKRG for more than 20 years. In fact, with Buck's strong support, several of my colleagues and I, most notably former Congressman Earl Hutto and the Senate Majority Leader, TRENT LOTT, have been able to appear on WKRG on a regular basis keeping the viewing audience in Northwest Florida, Southwest Alabama and the Mississippi Gulf Coast informed on the latest news coming out of Washington.

As you can imagine, Buck Long has received numerous awards over the years but three in particular stand out. Not long ago, the Alabama Broadcasting Association named Buck Alabama Broadcaster of the Year. In addition, he has also been named a Paul Harris Fellow from the Mobile Rotary Club and an Honorary Fellow to the University of Mobile.

Buck resides in Mobile with his wife, the former Sara Kerr. Their daughter, Karen St. Clair, also lives in Mobile with her husband Jeffrey Miles St. Clair, and their children, Sara, Katherine and Andrew.

Mr. Speaker, Buck Long is a good friend but more than that, he is a good citizen. His leadership in our community and at WKRG serves as an inspiration to young and old alike, and it is indeed a pleasure for me, as his congressman, to enter this recognition in the CONGRESSIONAL RECORD, so that on behalf of his viewing audience and my constituents, a proper ''thank you'' for his many efforts to make Mobile and South Alabama a better place can be duly noted. And to Buck and Sara, here's for many more years of success, good health and happiness in all your future endeavors.

SANDIA NATIONAL LABORATORIES FIRST FEMALE ENGINEER RETIRES

HON. ELLEN O. TAUSCHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mrs. TAUSCHER. Mr. Speaker, I rise today to recognize Betty Carrell, a constituent from Livermore, California and one of science's true female pioneers.

While at Oregon State University in the 1950s, Betty Carrell was the only female student enrolled in the university's engineering program. In fact, because of her welding classes, Mrs. Carrell was the only woman allowed to wear pants on campus.

In 1959, Mrs. Carrell graduated and was quickly hired by Sandia National Laboratories in Livermore, California where she became their first female engineer. After five ground breaking years, where she was the only woman among the 350 engineers at Sandia, Betty left just prior to the birth of her first child.

While raising her two children, who it should be noted are now both mechanical engineers, Betty somehow found time to serve on the Livermore School Board, including two terms as its president. Among her other civic activities, she also sat on the Chabot Community College Foundation and the Livermore Chamber of Commerce.

In 1984, she returned to Sandia where she worked on a number of projects including solar thermal technology, warhead dismantling programs and toxic waste reduction. Betty is most proud of the environmental management work she did in Washington, D.C. for two years while on loan to the Department of Energy. Earlier this year at the age of 60 and after 20 fulfilling years at Sandia, Betty Carrell retired from the working world.

Betty Carrell is truly an inspiration to young woman everywhere who dream of entering the workplace as scientists and engineers. At an early age, she shared her parent's love of math and science so it was a natural for her to want to become an engineer.

Betty can be delighted with the progress women have made in the sciences. Of the 630 technical engineers at Sandia today, 107, 17 percent of them, are women. Betty Carrell should take great pride in the trail she blazed for women everywhere in engineering and in the sciences. We in the 10th Congressional District are extremely fortunate to have someone as special and as courageous as Betty Carrell living in our community. I applaud her for her efforts on behalf of women everywhere and I wish her the best in her well-deserved retirement.

TRIBUTE TO ROY TOWERS

HON. FRANK RIGGS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. RIGGS. Mr. Speaker, one of my best friends left this world for a better one last week. His name was Roy Towers. He had one mission in life, to help make his country, his state and Del Norte County a better place to live, work and raise a family.

Some people sit on the sidelines and say why bother. Not Roy Towers. He was the type of person to get involved and make a difference. And make a difference he did. In the political arena there was no one better at organizing to elect the candidate he felt would do the best job for the people. Where some people just give money, and others only give their time, Roy Towers gave both.

Most people will remember him as a political activist, but he was so much more than that. Few people will recall that it was Roy Towers who was one of the prime movers of the effort to get quality care in Del Norte County. Yes, as a member of the Local Hospital Board of Directors, he convinced Sutter Health Systems to invest millions of their dollars to build a new hospital in Crescent City. He made sure that poor people were guaranteed access to good health care by convincing the board to bring in a medical clinic to serve those who could not afford medical and dental care.

Roy was also a dependable friend. I often sought his advice and counsel, and he was always forthright with his thoughts and ideas.

He was a person who was active right up to the end, fighting for his beliefs.

[From the Daily Triplicate, Tuesday, May 19, 1998]

ROY TOWERS, 1920–1998

A MAN OF INFLUENCE AND DILIGENCE, ROY TOWERS WORKED HARD TO LEAVE HIS LITTLE CORNER OF THE WORLD A BETTER PLACE

If someone met Roy Towers walking down the street, at least in the 1990s, most people would not see the clout the gentleman held in the area. They would have seen a tall, orderly man with quiet eyes and reserved demeanor. Flashy was not part of his wardrobe or his lifestyle.

Yet Towers was far different than some others with power. First, Towers' influence wasn't because of his money, although he did have a dime or two. No, it was built on respect. It was anchored in hard work. He was willing to fight his own battles. For example, he saw a need for leadership on what is now the Del Norte Healthcare District's board of directors, and for 17 years he provided that in a determined, yet civilized, manner.

Towers was also a man who understood principles and accepted the fact that other people had principles that didn't always match his goals. As long as an opponent had a good reason for disagreeing with him, Towers understood.

Roy Towers died last week. He took with him a wealth of knowledge about many subjects, such as making friends and making Del Norte County a better place to be. He will be missed.

''MIRACLE AT MIDNIGHT:'' AN EXTRAORDINARY FILM AND A VALUABLE LESSON FROM THE PEOPLE OF DENMARK

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. LANTOS. Mr. Speaker, I am pleased to honor today an outstanding film, ''Miracle at Midnight,'' that appeared on ABC television's ''The Wonderful World of Disney'' on Sunday night, May 17. This moving drama, which was created by ABC, the Disney Company, and the United States Holocaust Memorial Museum, is a stirring description of the story of Danish courage during World War II.

Other European nations, subdued by Nazi might, cowered at the feet of their conquerors and, in some cases, collaborated with them in their most despicable genocidal plans. The Danes stood firm against this affront to humanity, fighting back doggedly and bravely against German efforts to arrest Denmark's Jewish citizens. In a matter of hours, Danes of all religions and persuasions joined together to organize a rescue of miraculous success and unbelievable fortitude.

The swiftness and daring of the rescue illustrated in ''Miracle at Midnight'' is so monumental that it is difficult to believe. In fact, the entire account is based on the true experience of the Danish people.

On April 9, 1940, German tanks crossed the border into Denmark in an unprovoked attack upon a defenseless nation. As Nazi tanks rolled unhindered across the flat Jutland, the Danish government recognized the impossibility of resistance and surrendered within hours. As a reward for their initial passivity, the German occupiers allowed the Danes a modicum of freedom and a measure of civil life unparalleled under the Nazi yoke. Few untermenschen—''subhuman'' individuals of ''degenerate'' races—were molested by Gestapo thugs, and, for three years, life for most Danish citizens remained relatively unchanged.

In 1943, however, this changed. Ambitious SS officers in Copenhagen, perversely envious of their mass-murdering colleagues in Eastern Europe, ordered the arrest of the city's Jewish population to coincide with Erev Rosh Hashanah, the night before the start of the Jewish New Year. Word leaked quickly to the Jewish community, and men and women who arrived for celebratory synagogue services were immediately sent home to hide their families from the Nazi onslaught. Non-Jewish families, among them Dr. and Mrs. Karl Koster (skillfully portrayed by Sam Waterston and Mia Farrow) and their two teenage children, risked their lives by opening their homes to Jewish friends and neighbors. Dr. Koster, a leading Copenhagen surgeon, courageously converted the hospital which he directed into a refuge. Similar acts of principled, silent bravery dotted the historic city, making the ''surprise'' Nazi roundup an unmitigated failure.

Koster and his fellow protagonists soon realized that the Nazi thugs could not be evaded indefinitely, and they devised a plan to ferry their Jewish friends to neutral Sweden. Against seemingly hopeless odds, their efforts were rewarded. Through sheer good fortune and the wit, wisdom, and valor of the many Danish heroes, 7,000 Jews escaped to Sweden. Only a few fell into Nazi hands.

Mr. Speaker, I cannot overemphasize the importance of studying the horrible illustrations of human brutality that mark the history of the Holocaust. I feel equally passionate about the need to study the causes of the widespread popular indifference to the Nazi crimes. But another type of example from these awful years must also be highlighted: the instances of uncompromising bravery that saved many men, women, and children from the gas chambers. The fortitude of Oskar Schindler was brilliantly recorded on film by Steven Spielberg in the epic ''Schindler's List.'' The moral fight of the outnumbered and outgunned Jews of the Warsaw Ghetto tied down pivotal German forces for six weeks and, more importantly, served notice to Hitler's henchmen that the Jewish people would fight the tyranny forced upon them. For me and my wife, the lesson of Raoul Wallenberg, the Swedish humanitarian who saved our lives and the lives of 100,000 Budapest Jews, is one that we never fail to teach our grandchildren. The sacrifices of the Danes must also never be forgotten, and the brilliantly constructed ''Miracle at Midnight'' helps to fulfill this vital mission.

Mr. Speaker, the extraordinary film would not exist without the luminous talents and firm backing of many important participants. ''Miracle at Midnight'' is produced by Davis Entertainment in association with Walt Disney Television. John Davis and Merrill Karpf are the executive producers, with Morgan O'Sullivan as producer. Ken Cameron directed from a script by Chris Bryant and Monte Merrick. Waterston, the acclaimed star of ''The Killing Fields'' and television's ''Law and Order,'' joins Ms. Farrow, Justin Whalin, and numerous other brilliant artists in their magnificent acting performances.

''Miracle at Midnight'' displays for us all the beauty and justice of a people comparatively unburdened by the racial and religious hatreds that indelibly stamped the Holocaust. Preben Munch-Nielsen, then a teenager, took part in that historic rescue: ''We didn't recognize Jews as Jews, but as Danes. . . . The Jews . . . were victims of an insane movement created by lunatics. If you wanted to maintain your self-respect, you did what you could.'' This film is a wonderful lesson of tolerance, dignity, and selflessness. Mr. Speaker, I ask my colleagues to join me in commending ''Miracle at Midnight'' and all those who contributed to its valuable historical lesson.

STATEMENT ON DEFENSE AUTHORIZATION BILL—MOFFETT FEDERAL AIRFIELD, COMPOSITE MAINTENANCE HANGAR

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Ms. ESHOO. Mr. Speaker, I'm disappointed that the National Security Committee was unable to include funding for the construction of a new composite hangar for the Air National Guard 129th Rescue Wing stationed at Moffett Federal Airfield in California.

I understand the fiscal restraints placed on the Committee, especially in the area of construction and infrastructure. That is why I am urging the Administration to give careful consideration to including the project in the FY 2000 budget currently being developed.

Currently, the hangar and maintenance facilities for the 129th Rescue Wing at MFA are inadequate and unsafe for personnel and aircraft. The existing hangar (Hangar 3), built before World War II, was designed to house dirigibles an is much too large and in need of costly renovations and repairs. A newly constructed Composite Maintenance Hangar would greatly enhance the operational effectiveness and readiness of the California Air National Guard and the 129th Rescue Wing.

NASA was designated as the host agency to accommodate federal assets at Moffett as a result of the 1993 Base Realignment and Closure Commission recommendations. Subsequently, all tenants at Moffett were required to relocate to contiguous areas, using available facilities to house their activities. As a result, there are no aircraft hangar facilities available to house the nearly 200 maintenance personnel performing repairs to the HC–130P and HH–60G aircraft in the Air National Guard area. Hangar and related aircraft maintenance activities are currently being performed in a World War II hangar designed for dirigibles. The hangar is almost seven times the size of what is needed by the Air National Guard, and is located a substantial distance from the identified Air National Guard area. This building is constructed of wood with a metal roof and has no fire protection or state-of-the-art safety features.

The current facility has inefficient and obsolete utility and environmental systems. The building also requires extensive code upgrades to ensure seismic safety, and the alarm systems are inadequate. Because of the age and condition of the existing hangar, critical and substantial operation and maintenance (O&M) funds are being expended annually to keep the hangar marginally useful. A Life Cycle Cost Report done by the Air Force shows that there is a one year payback involved in the construction of this new composite maintenance hangar, and design of the project has been completed.

I urge the administration to include this project in next year's budget, and hope that at this time next year I can thank the Committee for its work in protecting and assisting the members of the Guard that serve California.

HONORING VINCE'S BRIDGE IN PASADENA, TX

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. BENTSEN. Mr. Speaker, I rise to recognize the site of Vince's Bridge in Pasadena, Texas, as it is rededicated on May 24, 1998, to the memory of the men and women who participated in the struggle for Texas Independence. In addition, this rededication is a tribute to Pasadena's Our Neighborhood Association and its President, Nona Phillips, who not only spearheaded this rededication, but also conducted painstaking historical research in an effort to document the bridge's role in the Battle of San Jacinto.

At the Battle of San Jacinto, Texas Army General Sam Houston made a surprise attack on the Mexican Army near the mouth of the San Jacinto River, defeating the Mexican Army under General Santa Anna. This battle ended the war, and Texas earned its independence from Mexico. According to the research conducted by Nona Phillips and her neighbors, as well as other historians, Vince's Bridge played a critical role in this victory.

General Sam Houston and the meager Texas Army retreated eastward after the fall of the Alamo in the spring of 1836. The troops were increasingly impatient and demoralized by the time they reached Buffalo Bayou, a few miles southeast of present day Houston.

On April 19, the Texans crossed over and marched down the right bank of Buffalo Bayou to within half a mile of its confluence with the San Jacinto River. Here, the Texas Army prepared their defenses on the edge of a grove of trees. Their rear was protected by timber and the bayou, while before them was an open prairie.

The main forces of the Texas Army totaled about 750 men. They faced a force of 1,500 of the Mexican Army, confident because of their recent successes against the Texans.

Early in the morning of April 21, 1836, Sam Houston sent Erasmus ''Deaf'' Smith, the celebrated Texas scout, along with John Coker, Denmore Reves, John Garner, John Rainwater, Moses Lapham, and Y.P. Alsbury, to destroy Vince's Bridge over which the Mexican Army had passed, thus cutting off their only available escape. The stage set for battle, General Houston gave his long-awaited order to fight, and after only 18 minutes and shouts of ''Remember the Alamo,'' the Texans were victorious. Santa Anna, who was taken prisoner, signed a treaty that granted Texans their independence and ended the war. The battle for Texas was won.

Vince's Bridge was, by most historical accounts, a relatively small wooden bridge spanning one of the many estuaries of Buffalo Bayou. While the San Jacinto Monument, which today is a museum housing artifacts of the battle, attests to the Texan victory, only a small granite marker along Texas 225, a seldom-travelled, two-lane road, denotes the location of Vince's Bridge. The marker, laid in the early 1900s by the Daughters of the Republic of Texas, has almost been forgotten, the message nearly illegible from time and salt.

Longtime residents and members of Pasadena's Our Neighborhood Association believe the site deserves more recognition since the bridge was instrumental in the Texans' victory. So on May 24, 1998 they will rededicate the marker at the site of Vince's Bridge.

Mr. Speaker, I commend Nona Phillips and Our Neighborhood Association for their unrelenting efforts to carry out this project. Over the years, the bridge has maintained its own identity and symbolism. In the Association's words, ''it was built with love and hope and dreams. It was destroyed to protect those dreams. It comes back to life at a time when our children are sorely in need of dreams and example.'' It is fitting that we rededicate the Vince's Bridge marker to the women and men who participated in the struggle for Texas independence and helped the dreams survive.

THE ''CALIFORNIA COASTAL ROCKS AND ISLANDS WILDERNESS ACT OF 1998''

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. FARR of California. Mr. Speaker, I rise today to introduce the California Coastal Rocks and Islands Wilderness Act of 1998. I am pleased to be able to offer this bill with the support of my colleague, Representative ELTON GALLEGLY.

The purpose of this bill is to recognize the ecological significance of the tens thousands of small rocks, islands and pinnacles off the California coast, by designating them as part of the National Wilderness Preservation System. These small islands and rocks provide important resting sites for California sea lions, Steller's sea lions, elephant seals and harbor seals, as well as providing a narrow flight lane in the Pacific Flyway. An estimated 200,000 breeding seabirds of 13 different species use these rocks and islands for feeding, perching, nesting and shelter. Birds that use these areas include three threatened and endangered species: the brown pelican, the least tern and the peregrine falcon.

The Wilderness designation afforded by this act would apply to all rocks, islands and pinnacles off the California coast from the Oregon border to the U.S. Mexico border, which are currently under the jurisdiction of the Bureau of Land Management (BLM). This includes nearly all of the federally-owned lands above the mean high tide and within three geographical miles off the coast.

The designation would afford the highest protected status and highlight the ecological importance of all of the small rocks, islands and pinnacles off the California coast, which together comprise approximately 7,000 square acres. Adding these areas would also further the Wilderness Act's goal of including unique, ecologically representative areas to the System.

Rocks and islands which are already patented or reserved for marine navigational aids, National Monuments, or state parks will not be affected by the legislation.

I am pleased to be able to introduce this bill and look forward to its swift passage, so that these unique areas of California's ecosystem can be preserved and protected for generations to come.

INTRODUCING DISTRICT OF COLUMBIA LEGISLATIVE AND BUDGET AUTONOMY ACT OF 1998, THE FIRST BILL IN A SERIES OF DEMOCRACY TRANSITION BILLS

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Ms. NORTON. Mr. Speaker, today I introduce the District of Columbia Legislative and Budget Autonomy Act of 1998, the first in a series of bills that I will introduce this session to ensure a process of transition to democracy and self-government for the residents of the District of Columbia.

The National Capital Revitalization and Self-Government Improvement Act passed last summer eliminated the city's traditional stagnant Federal payment and replaced it with Federal assumption of escalating State costs including prisons, courts and Medicaid, as well as federally created pension liability. Federal funding of these State costs involve the jurisdiction of other appropriations subcommittees. The DC Subcommittee is put in the position largely of appropriating the District's own locally-raised revenue from its own taxpayers money! Any new federal money for the District will come on a targeted basis covered by other subcommittees. My bill corrects an untenable position in a democracy that operates under principles of federalism, namely a national legislature appropriating in whole the budget of a local city jurisdiction. The budget autonomy component of the bill would allow the District government to pass its own budget without congressional approval.

Congress has put in place two safeguards that duplicate the function of the appropriation subcommittees—the Chief Financial Officer and the District of Columbia Financial Responsibility and Management Assistance Authority (Financial Authority). Moreover, the District has already begun to demonstrate that it is capable of exercising prudent authority over its own budget. This year, an independent accounting firm certified the District's first year (FY 1997) of a balanced budget and surplus, and the District is scheduled to continue to run balanced budgets and surpluses into the future. Under the Financial Responsibility and Management Assistance Authority Act (FRMAA), the Financial Authority will remain in place for two more fiscal years (FY 1999, FY 2000) in any case, allowing the necessary monitoring and affording a period for the city to exercise the new authority while being monitored.

Budget autonomy will also serve to encourage more rapid and effective action by the District government and the Financial Authority to return the District to permanent solvency and to reform its budgetary governmental procedures. Budget autonomy facilitates the two indispensable goals of (1) streamlining the District's needlessly lengthy and expensive budget process in keeping with the congressional intent of the FRMAA to reform and simplify D.C. government procedures, and (2) facilitating more accurate budgetary forecasting. This bill inserts into the DC reform process a carrot where there have been only sticks. Incentives will help to hasten reform.

This bill would return the city's budget process to the simple approach proposed in the Senate and the District of Columbia Committee during the 1973 consideration of the Home Rule Act. The Senate version, as well as the bill reported by the District of Columbia Committee, provided a simple procedure for enacting the city's budget into law. Under this procedure, the Mayor would submit a balanced budget for review by the City Council with only the federal payment subjected to congressional approval. A conference compromise, however, vitiated this approach treating the DC government as a federal agency (hence the 1996 very harmful shutdown of the DC government for a full week when the federal government was shut down). The Home Rule Act of 1973, as passed, requires the Mayor to submit a balanced budget for review by the City Council and then subsequently to Congress as part of the President's annual budget as if a jurisdiction of 540,000 residents were an agency of the federal government.

The D.C. budget process takes 18–22 months from start to finish. The usual time for comparable cities is six months. The necessity for a Financial Authority significantly extended an already uniquely lengthy budget process. Even without the addition of the Authority, the current budget process requires the city to navigate its way through a complex bureaucratic morass imposed upon it by the Congress. Under the current process, the Mayor is required to submit a financial plan and budget to the City Council and the Authority. The Authority reviews the Mayor's budget and determines whether it is approved or rejected. Following this determination, the Mayor and the City Council (which also hold hearings on the budget) each have two opportunities to gain Authority approval of the financial plan and budget. The Authority provides recommendations throughout this process. If the Authority does not approve the Council's financial plan and budget on second review, if forwards the Council's revised financial plan and budget (containing the Authority's recommendations to bring the plan and budget into compliance) to the District government and to the President. If the Authority does approve the budget, that budget is then sent to the President without recommendations. The District budget includes proposed expenditures of locally raised revenues as well as a proposed federal payment. The proposed District budget is then included in the federal budget, which the President forwards to Congress for consideration. The DC subcommittee in both the House and Senate review the budget and present a Chairman's mark for consideration. Following markup and passage by both Houses, the DC appropriations bill is sent to the President for his signature. Throughout this process the bill is not only subject to considerations of fiscal soundness but individual and political considerations.

This procedure made a bad budgetary process much worse causing me to write a consensus budget amendment that allows the parties to sit at the same table and write one budget. Even so, instead of that budget becoming law now, the District is likely to be without a budget until close to the adjournment of Congress this year.

Under the legislation I introduce today, the District of Columbia still remains subject to the full appropriations process in the House and Senate for any federal funds. Nothing in this bill diminishes the power of the Congress to ''exercise exclusive legislation in all cases whatsoever'' over the District of Columbia under Article I, section 8, clause 17 of the U.S. Constitution should it choose to revise what the District has done concerning locally raised revenue. Nothing in this legislation prevents any member of Congress from introducing a bill that addresses her specific concerns regarding the District. Once the District receives budget autonomy, the Financial Authority Act still mandates that the Authority review the District's budget. Granting the District the power to propose and enact its own budget containing its own revenue free from Congressional control during the period when the Authority is still the monitoring mechanism eliminates all risk in granting this power and provides an important incentive to help the District reach budget balance and ultimately meaningful Home Rule.

My bill also contains another important section. It eliminates the congressional review period of 30 days and 60 days respectively, for civil and criminal acts passed by the DC City Council. Under the current system, all acts of the council are subjected to this Congressional layover period. This unnecessary, unprecedented and undemocratic step adds yet another unnecessary layer of bureaucracy to an already overburdened city government.

My bill would eliminate the need for the District to engage in the byzantine process of enacting emergency and temporary legislation concurrently with permanent legislation. The Home Rule charter contemplates that if the District needs to pass legislation while Congress is out of session, it may do so if two-thirds of the Council determines that an emergency exists, a majority of the Council approves the law and the Mayor signs it. Emergency legislation, however, lasts for only 90 days, which would (in theory) force the Council to the pass permanent legislation by undergoing the usual congressional review process when Congress returns. Similarly, the Home Rule Charter contemplates that the Council may pass temporary legislation lasting 120 days without being subjected to the congressional review process, but must endure the congressional layover period for that legislation to become law.

In actual practice, however, most legislation approved by the City Council is passed concurrently on an emergency, temporary and permanent basis to ensure that a large, rapidly changing city like the District remains running. This process is cumbersome and inefficient, and would be eliminated by my bill.

It is important to emphasize that my bill does not prevent review of District laws by Congress. The DC Subcommittee would continue to scrutinize every piece of legislation passed by the City Council if it wishes and to change or strike that legislation under the plenary authority over the District that the Constitution affords to the Congress. My bill merely eliminates the automatic hold placed on local legislation and the need to pass emergency and temporary legislation to keep the District functioning.

Since the adoption of the Home Rule Act in 1973, over 2000 acts have been passed by the council and signed into law by the Mayor. Of that number, only thirty-nine acts have been challenged by a congressional disapproval resolution. Only three of those resolutions have ever passed Congress—two of which involved a distinct federal interest. Two bills, rather than a hold on 2000 bills, would

have served the purpose and saved considerable time and money for the District and the Congress.

I ask my colleagues who are urging the District government to pursue greater efficiency and savings to do your part in giving the city the tools to cut through the bureaucratic maze the Congress has imposed upon the District. Congress has been clear it wants to see the DC government taken apart and put back together again in an effort to eliminate redundancy and inefficiency. Congress should therefore eliminate the bureaucracy in DC that Congress is solely responsible for by granting the city budgetary and legislative authority.

Only through true budgetary and legislative autonomy can the District realize meaningful self-government and Home Rule. The President and the Congress took the first step in relieving the District of costly escalating state functions in the President's Plan. This bill takes the next logical step by granting the District control over its own budgetary and legislative affairs. I urge my colleagues to pass this important measure.

THE FEDERAL FINANCIAL ASSISTANCE MANAGEMENT IMPROVEMENT ACT OF 1998

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. HOYER. Mr. Speaker, today Congressman PORTMAN and I have introduced The Federal Financial Assistance Management Improvement Act of 1998. This legislation eliminates duplicative paperwork for those individuals and groups attempting to get federal assistance. The bill also removes federal road blocks to coordinating service delivery for families receiving federal assistance. The Federal Financial Assistance Management Improvement Act of 1998 establishes the framework by which federal, state and local agencies can more efficiently deliver services to those in need.

We have asked families to get back on their feet so they can take care of themselves and their children but our maze of federal regulations makes it more difficult for community programs to assist families in doing this. We must help these families to help themselves. The Federal Financial Assistance Management Improvement Act of 1998 coordinates federal service programs to better serve our Nation's children and families and I am pleased to introduce it today with my colleagues ROB PORTMAN, JIM MORAN, CHRIS SHAYS, TOM DAVIS, STEVE HORN, GARY CONDIT, DENNIS KUCINICH, BOB WEYGAND, ROSA DELAURO, JIM MCGOVERN, CAROLYN KILPATRICK, JIM TALENT, MARK SANFORD, and JOHN SUNUNU.

IN TRIBUTE TO BOB CRANDALL

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. FROST. Mr. Speaker, today marks the retirement of one of the most prominent figures in American aviation. After twenty five years, the last thirteen as Chairman and CEO, Bob Crandall is leaving American Airlines. His legacy is immense.

A vehement opponent of deregulation in the 1970s, Bob Crandall guided American and, in turn, other airlines through the tumultuous 1980s. Bob Crandall's innovations—computer reservations systems, frequent flier programs, super saver fares and the hub and spoke system, to name a few—have become industry standards. American Airlines has tripled in size since moving its headquarters to Dallas-Fort Worth, which has grown with American to become one of the busiest airports in the United States.

We congratulate him as he leaves American and thank him for his visionary leadership both in the aviation community and in the Metroplex. We do not know exactly what his future holds, but we hope we have not heard the last of Bob Crandall.

INTRODUCTION OF THE ''COMMUNITY EMPOWERMENT AND EMPLOYEE PROTECTION ACT''

HON. TED STRICKLAND

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. STRICKLAND. Mr. Speaker, I rise today to introduce legislation, along with my colleague Mr. ED WHITFIELD of Kentucky, which would guarantee that an amount equal to the tax windfall the federal government receives from the privatized United States Enrichment Corporation (USEC) would help to assist job creation and stimulate economic development in southern Ohio and western Kentucky. In the Energy Policy Act of 1992, the government-owned corporation USEC was created to assume responsibility for the Department of Energy's (DOE) uranium enrichment program. The 1992 Energy Policy Act not only transferred the Department's uranium enrichment program to USEC, but it also included a requirement that USEC prepare a strategic plan to privatize the corporation. On June 30, 1995, USEC issued its privatization plan. Today, that privatization plan is near completion and the transfer of this public asset will take place as soon as this summer.

Back in the 1950's the Department of Energy's gaseous diffusion plants in Piketon, Ohio and Paducah, Kentucky operated to supply enriched uranium for U.S. nuclear weapons and later for reactor fuel for nuclear submarines. Today, the Piketon and Paducah facilities provide an essential service in the production of fuel for commercial nuclear power plants operated by electric utilities. Unfortunately, the changes in DOE's mission have led to significant workforce reductions at the plant in southern Ohio, and this downsizing dramatically affects a region which has not experienced the unparalleled economic recovery so many other communities throughout the country have enjoyed. Under privatization, USEC intends to restructure its operation and there is a growing uncertainty about the security of existing jobs at the plant. Therefore, I believe the bill we are introducing today provides a reasonable approach to addressing the needs of the workers, their families and the communities of Ohio and Kentucky that supported our efforts during the Cold War.

Specifically, the bill directs the Department of Energy's Worker and Community Transition Office to set up and manage a fund dedicated to improve economic security of the communities which depend on and support the operation of the two uranium enrichment plants located in Piketon, Ohio and Paducah, Kentucky. The appropriation to this fund would be authorized at a level equal to the tax windfall received by the federal government from the privatized USEC. Under the management of DOE's Worker and Community Transition Office, the allocation of funds to the regions would be directly related to the economic distress factors in the local communities surrounding the facilities and could provide the resources necessary to improve the economic health in these regions. Those counties experiencing the highest unemployment rates would receive larger allocations than counties with unemployment rates closer to the state average unemployment rate. These financial resources would be used to help train displaced employees and market the region for future business opportunities. This dedicated fund would dissolve when the local unemployment rates of the affected counties reach the average unemployment rate of the respective states for a period equal to at least one year.

While I recognize that downsizing at DOE facilities adversely affects local communities across the country, I doubt whether many of these communities have the pressing need that exists near the Piketon, Ohio plant. Recent unemployment statistics indicate that the average unemployment rate of the four counties surrounding the Piketon, Ohio plant is greater than 10%. The average unemployment rate in the state of Ohio is 4.3%, seasonally adjusted, and the national adjusted average unemployment rate is 4.7%. This bill is designed to address this unacceptable disparity and help to ensure that southern Ohio has an equal opportunity to contribute to this nation's economic recovery.

HONORING LOU BOOKER ON THE OCCASION OF 20 YEARS OF EXEMPLARY SERVICE TO THE SANTA FE SPRINGS CHAMBER OF COMMERCE AND INDUSTRIAL LEAGUE

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. TORRES. Mr. Speaker, I rise today to recognize Lou Booker for 20 years of outstanding service as Executive Director of the Santa Fe Springs Chamber of Commerce & Industrial League. Lou was recognized last week in Santa Fe Springs, California.

Lou Booker and her husband Vern have two children Steve and Lynn and six grandchildren. They reside in La Palma, California.

Lou began her career with the Santa Fe Springs Chamber of Commerce & Industrial League in 1978. Throughout her 20 years of service, she has implemented and maintained programs that have placed Santa Fe Springs Chamber of Commerce & Industrial League at the forefront of area chambers. One of the programs that Lou supports is the Rotary Club of Santa Fe Springs. Lou has also worked to expand the City of Santa Fe Springs' annual

business and residential ''Citizen of the Year'' Award Ceremony and the biannual ''Salute of Merit Award,'' to recognizing fire, police and highway patrol service personnel.

Lou has earned a state-wide reputation for developing a chamber that consistently has been on the ''cutting-edge'' of innovation. She is the editor of a highly acclaimed monthly newspaper—The Business & Industry News; the Business & Industry News Directory and a nationally recognized and awarded Business Emergency Preparedness Network. She has also assisted in the development and publication of the Legislative Action Guide for the Gateway Chambers Alliance. These publications keep constituents informed on local and national business issues.

In addition to her service to our local business community, Lou has also provided leadership and inspiration to the youth of Santa Fe Springs. She has assisted in the implementation of community Chamber/League committees and activities that have development school programs and projects focusing on drug awareness and career development. She is a strong supporter of the CHOICES Program and the DESTINY FUND, a school Mentor program.

Mr. Speaker, this afternoon, members and leaders of our community gathered to recognize Lou for her 20 years of exemplary service to the community of Santa Fe Springs. I ask my colleagues to join me in honoring Lou Booker's 20 years of selfless dedication to the Santa Fe Springs Chamber of Commerce & Industrial League.

CAMPAIGN FINANCE

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. SHIMKUS. Mr. Speaker, I rise today to ask my colleagues to support provisions in our upcoming campaign finance debate which require full disclosure of all campaign contributions and expenditures.

In the past several years, we have too often seen abuses of the campaign financing system, where money is pouring into elections from foreign and other unknown sources with little consequence. I find it disturbing that campaigns are sometimes run behind the scenes, behind the backs of voters, so that the campaign finance process generates fear and distrust among voters, instead of honesty and openness.

Although the popular opinion polls may show an indifference or apathy toward campaign finance, I feel that many Americans see these questionable escapades as an inherent part of the campaign finance system, and they feel the situation may never improve.

As a Member of Congress who has no extravagant personal wealth, and no means to independently finance my own campaign, I believe in letting the system work. I believe that candidates young or old, rich or poor, black or white, can and must continue to be able to serve their community and country as a Representative in Congress. The opportunity to serve in Congress must not be limited to only those who have personal wealth, which is the effect that many of the campaign reform bills would have on candidates.

In order to preserve this opportunity for future Congressional aspirants, I believe we must focus our campaign finance reform efforts on getting the truth to the American people—because that is what they want. And finding the truth means opening up our books, all of our campaign finance documents, and letting the light shine brightly on who is giving money to our candidates, who is spending special interest money on their elections, and how much they are spending on these races.

Because too often, people inherently fear that which they do not know. The American people have been kept in the dark about who is getting what money, how much is coming in and from where it comes. Only then will the people be able to decide who best represents them.

Congress must support full disclosure of all campaign related financing, and full publication of campaign documents, and let the sun shine in on how candidates finance their campaigns.

SOUTH BEND TRIBUNE 125TH ANNIVERSARY CELEBRATION DAY

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. ROEMER. Mr. Speaker, Thomas Jefferson once said of newspapers: ''The basis of our government being the opinion of the people, the very first object should be to keep that right; and were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter.''

Next Thursday, on May 28th, one of the great papers in the State of Indiana, the South Bend Tribune, will mark 125 years of continuous publication as a daily newspaper. Since its inception in 1873, the Tribune has compiled an outstanding record of professionalism and public service that continues today. South Bend, the State of Indiana, and portions of Michigan are all fortunate to have a newspaper that sets such a high standard for community service and journalistic competence.

The Tribune is an exceptional newspaper in a variety of ways. Allow me to mention a few examples. First, the Tribune has been recognized on many occasions by local, state, and national newspaper organizations for its outstanding coverage and service to its readers. Year after year the paper wins awards in a wide variety of categories: from photography, to deadline reporting, to editorial writing.

Second, the dedicated and devoted staff of the Tribune produce a newspaper that is consistent in the high quality of its content. Readers all over Indiana have learned that they can depend on the Tribune to produce an excellent newspaper every day.

Third, the Tribune continues to be devoted to its community. In an era of cookie-cutter national newspaper chains that lack local flair or public concerns, the Tribune remains a locally owned and managed newspaper that is dedicated to promoting the health and civic discourse of its community.

When Joseph Pulitzer retired, he outlined a standard for newspapers that exemplifies the history of the Tribune: ''That it will always fight for progress and reform, never tolerate injustice or corruption, always fight demagogues of all parties, never belong to any party, always oppose privileged classes and public plunderers, never lack sympathy with the poor, always be drastically independent, never be afraid to attack wrong, whether by predatory plutocracy or predatory poverty.''

The residents of the Tribune will mark May 28th with the hope and assurance that the newspaper will continue to have a similar impact for many years into the future.

RETIREMENT OF REAR ADMIRAL KENDELL PEASE

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. SKELTON. Mr. Speaker, I rise today to recognize the distinguished service of Rear Admiral Kendell Pease, who recently retired from the United States Navy as Chief of Information after 34 years of exemplary service.

After a brief period as an enlisted man and four years at the Naval Academy, Admiral Pease joined the fleet as a public affairs officer in 1968. He served his country in Vietnam, with subsequent assignments in Naples, Italy; Charleston, South Carolina; Washington, DC; and Norfolk, Virginia. He was public affairs officer at the Naval Academy, served on the staff of the Assistant Secretary of Defense for Public Affairs at the Pentagon, and was also public affairs officer at the Bureau of Naval Personnel.

It was at the Navy Office of Information in the Pentagon where Rear Admiral Pease really made his mark as a spokesman for Navy-wide operations and policy. He served in the Office of Information three different times, the final time in his position as Chief of Information, where he was the principal public affairs advisor to and spokesman for both the Secretary of the Navy and the Chief of Naval Operations for nearly six years, the longest term ever held by a Chief of Information. Admiral Pease's tenure spanned some of the most dramatic changes the sea service has experienced in more than 200 years. He saw the aftermath of Tailhook and the integration of women into combat roles in the Navy; he saw the challenges of personnel drawdowns following the collapse of the Iron Curtain; he helped the Navy mold and then iterate a drastic change in mission philosophy, from a blue water fighting force designed to counter the Soviet threat to a brown water force capable of fighting in the littorals and projecting power from the sea. He was always engaged with the media, discussing necessary new acquisition programs like the F/A–18E/F Super Hornet; the *Seawolf* and the New Attack Submarines; the next generation aircraft carrier CVX and CVN–77, the transition ship to CVX; and DD21, the Navy's land attack destroyer for the 21st century. Over and over and over again, Rear Admiral Pease communicated the Navy's role of Forward Presence—operating ships, submarines and aircraft anywhere in the world, unencumbered by host country sensitivities.

Admiral Pease was the Navy's chief spokesman during numerous naval deployments to protect American interests in global hotspots

like the Persian Gulf, Taiwan Straits, Somalia, and the Adriatic Sea off Bosnia. And on occasion, when force was the final resort as we have seen several times in the past few years in Iraq and Bosnia, Rear Admiral Pease was there, telling the story of the heroic American Sailor and his or her efforts in the face of adversity. Admiral Pease placed particular emphasis on the Sailor, because he realized that they were the backbone of the fleet—the ingenuity of the individual American Sailor is what make our Navy the greatest one in the world.

Rear Admiral Pease was a master of presenting the Navy's role in world events to the American public. He personally mentored hundreds of junior officers who were members of the Navy public affairs community; he was demanding, but mostly of himself, often arriving at the Pentagon before six a.m. and routinely working until nine or ten at night. His untiring commitment led to a remarkable increase in America's understanding of the Navy and its people. He clearly played a significant role in the shaping of public opinion and the future of the sea service.

Admiral Pease was an innovative communicator. He was at the forefront of promoting digital photography to tell a story half a world away; he also used video teleconferencing at sea and the internet to carry the Navy's message. And his tenure as the Chief of Information saw incredible evolution not only in the way the Navy communicates with the public, but also with Sailors. He refined the Navy's internal publications, reorganized and enhanced the Navy's weekly news program ''Navy and Marine Corps News'', and pioneered Direct to Sailor television aboard ships at sea—satellite technology destined to bring live television programming to all Navy ships in the next decade.

Perhaps most of all, Rear Admiral Pease was valued not only for his ability as a communicator, but more importantly as a strategic, big picture thinker, advisor and the voice of reason. He served three Secretaries of the Navy and three Chiefs of Naval Operations during his six years as the Chief of Information. A man of unparalleled vision, his opinion weighed significantly more than the two stars he wore on his collar would indicate. He is a man who served his country loyally and truly epitomizes the Navy core values of honor, courage and commitment.

I know the Members join me in this tribute to Rear Admiral Kendell Pease, who has truly given his all to the United States Navy for the last 34 years.

ROSAS COMMUNITY AWARDS

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. SCHUMER. Mr. Speaker, one of my greatest pleasures in serving in this Congress is the opportunity to recognize outstanding people for their accomplishments. Former Councilwoman Joan Griffin McCabe, Captain James L. Luongo, and Edmundo Quinones are people who have dedicated their lives to the public good. In recognition of their service, they will be receiving the Revitalization of the Southern Area of the Slope community service awards this Thursday evening.

Former Councilwoman Joan Griffin McCabe has distinguished herself through her lifelong career as an education activist. Starting in 1991, Ms. McCabe spent six years as the representative of the 38th District in the New York City Council. During her two terms, Ms. McCabe produced many tangible benefits for the community, including protection of the environmental integrity of the Brooklyn Waterfront and $120 million dollars from the city government for school textbooks. Her work on behalf of students in New York city has earned her wide recognition.

Captain James L. Luongo has earned recognition as a result of his nearly twenty years of service in the NYC Police Department. Captain Luongo is the commanding officer of the 78th Precinct and a member of the Honor Legion. He has previous experience in Patrol, Narcotics, and Detective work. Captain Luongo's work in the NYC has made the city a safer place in which to live.

Edmundo Quinones is the Deputy Director of Social Services at Project Reach Youth in Park Slope. Mr. Quinones has spent his life work for the public good with children and families. He has worked for a myriad of goals, leading support groups for parents and teens, organizing parent advocacy groups for school reform, and helping teen parents and runaways. Edmundo Quinones has earned this recognition as the result of his lifetime of service to the families of Park Slope.

I hope that all of my colleagues will join me today in honoring these three, their lives spent working for the public weal are an inspiration to us all.

PORTSMOUTH MIDDLE SCHOOL VISITS WASHINGTON, DC

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. KENNEDY of Rhode Island. Mr. Speaker, I want to take this opportunity to praise the hard work of those who organized the Portsmouth Middle School Annual Field Trip to Washington, DC. Every year a group of students from the school are taken to the Capitol to have a tour. A number of people put a great deal of time and effort into organizing this trip. In fact these same dedicated individuals have been making this trip for over twenty years. I would like to acknowledge these people for the work they have done. Richard Munch, Beverly Tavares, Paul Fuller, Andrew Schlachter, Harold Weymouth, Beverly Mankofsky, Jackie Shearman, Heather Baker. Without their constant help and support the trip would not take place.

The trip enables young students to see the Capitol up close and they learn a great deal of how the government works. It is important that our young people get to see for themselves the legislative process. The get a tour of the Capitol which goes through all aspects of the legislature. They are able to learn the procedures of Congress and they get a taste of how the process functions. This is a very educational tour as these students are able to hear the history of the nation and the capital. They go to Congressional offices, are shown through the Capitol and see the House in action.

I believe that it is an important aspect of our democracy that people can come and see the political process themselves. Many members of the populace never get a chance to do this. Often the legislative process seems far removed from the average persons everyday life. It is often seen as a process that they cannot have any part in. We need to educate people in what we do. to show them that we are here to serve them and that we are answerable to them. This is how our democracy works and young people should be aware of these principles.

The Capitol tour gives a taste of the history of the United States. I believe that these young people need to learn about their history and the work that our great leaders have put into creating the nation we have today. It is the people that I mentioned above from Portsmouth Middle School who make this trip possible. They have over the years acted beyond the call of duty to make these trips work. I would like to acknowledge their efforts and note that I appreciate the work they do to show a new generation of young people our democratic process.

SALUTING THE EARTHLINK NETWORK

HON. JAMES E. ROGAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. ROGAN. Mr. Speaker, the truest test of a company's service is the satisfaction of its customers. As a testament to its high level of customer commitment, one company in my district has been recognized recently for rising to the top in the Internet Service Provider market: the Earthlink Network.

In mid-1994, an enterprising young businessman, Sky Dayton, founded a local Internet access provider to take advantage of a void where larger national companies had lapsed. Mr. Dayton quickly capitalized on his local niche, and fostered the development of Earthlink Network into what is today the world's largest independent Internet access firm.

While achieving success was by no means a smooth journey, word of Earthlink's dedication to service quickly spread, winning them accolades from newspapers and magazines across the country. Among their achievements in the professional realm, none is more significant than the news last month that the Earthlink Network had surpassed the 500,000-customer mark.

By ensuring that its services were operational over 99 percent of the time, and by providing consistent quality customer service, Earthlink Network is demonstrating that true entrepreneurial spirit thrives in the 27th Congressional District. One man's idea for a new start-up business has steadily grown into a trendsetter in the industry. Just last year, the Los Angeles Times reported: ''[Earthlink] has combined good marketing, good service, good capital-raising ability and good attention to strategic detail to grow from nothing to almost 400,000 subscribers in just three years.''

Mr. Speaker, I echo these same sentiments. In just a few years the Internet has grown from the brainchild of a few computer experts to the modus operandi of school children,

businesses, and industries around the world. Earthlink Network has developed a loyal following by harnessing the power of the Internet, and presenting it to consumers in an understandable and user-friendly format. For their dedication to quality and their innovations in the access provider industry, I ask my colleagues here today to join me in saluting the excellence of Earthlink Network, and in congratulating them on their 500,000th customer.

DRUG FREE BORDERS ACT

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. PACKARD. Mr. Speaker, today I would like to salute all of my colleagues who joined me last night in supporting the Drug Free Borders Act. I would especially like to commend Congressman PHILIP CRANE (R–IL) for his leadership in introducing this legislation and following through with its rapid progression.

The Drug Free Borders Act plays an important role in our renewed efforts to win the War on Drugs by authorizing an additional $233 million for the U.S. Customs Service. This legislation also calls for 1,745 more Customs inspectors and special agents, as well as new drug-screening technologies to assist in existing interdiction efforts.

As a resident of the Southern California region bordering Mexico, I am well-aware of the issues that surround the importation of narcotics. As the Congressional Representative for the 48th District of California, I know that our efforts are best directed at strengthening the security at our ports of entry in order to curb this disturbing practice.

Mr. Speaker, yesterday's passage of the Drug Free Borders Act is one more sign of this Congress' commitment to winning the War on Drugs. I applaud my colleagues and urge them to persist with this battle.

CONGRESSIONAL TRAVEL

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, May 20, 1998 into the CONGRESSIONAL RECORD.

REFORMING CONGRESSIONAL TRAVEL

One of the biggest changes I have seen during my years in Congress is an explosion in the number of complex issues Members of Congress are called upon to consider. Fortunately, Members have a host of resources on which they can rely for information, but these are no substitute for a Member's personal observations and experience. To get the broadest possible exposure to issues before Congress, Members must sometimes travel.

Congressional travel is frequently viewed with skepticism by the public, who worry that Members travel too often at too great an expense, with more emphasis on recreation than substance. They also voice concern about trips paid for by special-interest groups who are trying to influence the legislative process. Congress has in recent years placed greater restrictions on travel, but occasional reports of abuses continue to raise the public's ire, with the unfortunate effect of discouraging some legitimate and useful congressional travel. Many Members do not travel at all because they fear the political consequences from being accused of taking a junket. I recently introduced a travel reform package which seeks to address some of the problems with congressional travel while enhancing its benefits to Congress and the public.

Reasons for travel: Domestic and foreign travel can greatly enhance a Member's knowledge, improving the quality of legislation and congressional oversight. In our system of government, Congress has the power of the purse. With this power to spend money comes the equally important responsibility to ensure that it is well-spent; and direct, personal oversight by Members of Congress is essential. Some congressional trips save taxpayer dollars by exposing wasteful programs both at home and abroad. Travel can improve a Member's understanding of the impact government policies have on a particular region or group of citizens and can also increase the public's knowledge of issues before Congress.

Foreign travel increases the expertise of Members on programs and issues that commit significant United States resources abroad, from programs to promote U.S. exports to overseas military deployments to food aid for developing nations. Travel also alerts Members to foreign trade opportunities which can directly benefit constituents in their home districts. Moreover, Members can advance our national interests: because they do not represent the President directly, sometimes they can say things that U.S. diplomats cannot. It is ironic that there are strong pressures against foreign congressional travel at the very time that America's security and economic interests are broader and more complex than ever.

Problems: The purpose of some congressional travel, however, is dubious. Particularly troublesome is travel paid for by groups who have a direct interest in legislation before Congress. Some groups, for example, will invite Members and staff to attend seminars or conferences at resorts or other appealing locations. Though these meetings are ostensibly to explore important issues, most are really aimed at advancing a specific point of view and gaining access for lobbyists to key Members and staff. These sorts of trips create at the very least the perception that Members of Congress are accepting nice trips in exchange for their votes. While I think this sort of gross exchange of votes for favors is rare, these trips do allow special interests to have greater access to Members of Congress, and with access often comes influence.

There are also questions about whether Members travel too lavishly and at too great an expense. Many congressional trips involve the use of military aircraft, which is sometimes justified. In addition, Members' spouses sometimes accompany them on trips, even though there may not be in all cases a legitimate reason for them to do so.

Reforms needed: Congress can do a better job of ensuring that travel serves legitimate purposes. Recent reforms have been helpful. In 1995, for example, the House enacted a gift ban which required Members and staff to disclose any travel paid for by private funds and emphasized that trips must relate to the official business of the House. But loopholes remain in the rules. In an effort to improve accountability in congressional travel, I recently introduced a travel reform resolution which would:

Improve reporting requirements: The House currently requires Members and staff to file reports for certain types of travel. These reports often include the source of funds paying for travel, and an estimate of the cost of transportation, food, lodging, and other expenses. My proposal would require reports to also include a detailed itinerary and policy findings and recommendations; more information on private sources who fund trips; estimates of the costs of travel provided by a foreign government; and, if transportation is provided by the Department of Defense, an estimate of the cost equivalent commercial transportation.

Make travel records more accessible to the public: Currently, only reports for government-funded foreign travel are made widely available to the public. My proposal would require the House to publish in the CONGRESSIONAL RECORD and on the Internet a compilation of all travel reports for each calender quarter, as well as an annual summary of all House travel.

Ethics Committee approval for privately-funded trips: Under my proposal, travel funded by private sources would require advance authorization from the House Ethics Committee. The Ethics Committee would have to examine whether the person or group paying for the trip has a direct interest in legislation before Congress, and whether acceptance of the trip would have an adverse impact on the integrity of the legislative process.

Restrict perks: My proposal would prohibit Members and staff from accepting first-class airfare. Meals and lodging in excess of the federal employee per-diem rate would also be prohibited unless previously authorized by the House Ethnics Committee. Moreover, travel by spouses or family members would be limited.

Conclusion: I firmly believe that when congressional travel is done right, it can greatly benefit Members of Congress and the citizens they represent. The question is not whether to abolish congressional travel, but how to get rid of frivolous travel while maintaining the worthwhile. My hope is that by putting in place stronger safeguards against travel abuses, good, substantive congressional travel will enjoy the support of Members and the public.

CONGRESSIONAL SENIOR CITIZEN INTERN PROGRAM

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. STOKES. Mr. Speaker, each year during the month of May our nation celebrates National Senior Citizen Month. All throughout May, various communities around the nation celebrate the diverse contributions of their senior citizens. In recognition and in conjunction with National Senior Citizen month, senior citizens from across the United States are gathering on Capitol Hill to participate in the annual Congressional Senior Citizen Intern Program.

The annual senior intern program provides our nation's senior citizens with a firsthand look at their government in action. While participating as interns in Washington, D.C., they attend meetings, issue forums, and workshops on topics which impact the elderly community in particular. The Senior Citizen Intern Program also allows it's participants a chance to engage their congressional leaders, members

of the presidential cabinet, and other policymakers in extensive dialogue about the legislative process. I am extremely honored to salute Mrs. Gussie Jones, who has been selected as my Congressional Senior Citizen Intern. Mrs. Jones was born and raised in Cleveland, Ohio. A graduate of Case Western Reserve University, she is the type of person that my district is proud to have produced. Not only has Mrs. Jones handled the responsibilities associated with being a mother, grandmother and most recently being a great grandmother, but she is also a political activist and public speaker whose words of wisdom are well sought after in the Cleveland area. She has on many occasions represented me at various functions.

Mr. Speaker, for 32 years Mrs. Jones dedicated her career to being an assistant manager in the General Services Department and a member of the Ohio Bell Speakers Bureau. Her affiliations include the Inner Church Council, the Executive Board #1 of the Eliza Bryant Home for the Aged, the League of Women Voters, and the National Council of Negro Women. She also shares an affiliation with the Tau Gamma Delta Sorority Iota Chapter.

In particular Mr. Speaker, Mrs. Jones is very involved in the church environment. She is a very active member of both African Methodist Episcopalian Zion Church and St. Paul A.M.E. Zion Church. In addition to serving as administrative assistant to her Pastor and Presiding Elder, Mrs. Jones is the Director of Home Mission of A.M.E. Zion Church Conference, Secretary for the Cleveland District Connection, Executive Secretary of the Connectional Claims Committee, Member of the Home Mission Board, and the Stewardess Board #2. She is also the Chairperson of the Life Members Council for the Missionary Society, Chairperson of the Scholarship Fund Committee, and an honorary member and narrator of the Chancel Choir.

Mr. Speaker, I take great pride in honoring Mrs. Gussie Jones. She is an exceptional Christian woman who serves her community well. I am certain that Mrs. Jones will do an outstanding job as a Congressional Senior Citizen Intern. I want to congratulate her and express my appreciation for her participation in this very important program.

HONORING HOWELL CARNEGIE LIBRARY

HON. DEBBIE STABENOW

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mrs. STABENOW. Mr. Speaker, I am honored to celebrate the Howell Carnegie Library, which will receive a Michigan Historical Marker on May 17, 1998.

The Howell library originated as the Ladies Library Association in 1875. That year, the ladies began offering books for lending. In 1902, this service grew to such lengths that a need developed for a town library. With the financial help of steel entrepreneur Andrew Carnegie, Detroit architect Elijah E. Meyers, who in previous years designed Michigan's Capital, designed the Neoclassical library with fieldstones collected throughout the country on land donated by the four sons of Howell pioneer William McPherson.

Reading is one of life's greatest pleasures and the knowledge gained through libraries is critical to maintaining our great democracy. With this dedication, we need to honor not only this important structure but the people who were so committed to this important community service many years ago. From A.G. Kuehnle, a Howell native who hand built the library; to Andrew Carnegie, who funded over 2,500 free public libraries throughout the English-speaking world; to the people of Howell who established and supported the library throughout the years, this is an example of what can happen when dedicated people come together to meet the needs of the community. The Howell Carnegie Library is an important landmark and I am pleased it is getting the recognition it deserves.

COMMEMORATION OF SECOND ANNIVERSARY OF THE BROOKLYN CHINESE-AMERICAN ASSOCIATION

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Ms. VELÁZQUEZ. Mr. Speaker, I rise today to pay tribute to the Brooklyn Chinese-American Association on their second anniversary. This celebration is due to two years of community outreach. This organization began as a group of concerned citizens who wanted to better their community. Despite lack of funding and resources, the group managed to become an organized entity providing an array of vital services to the community.

The Brooklyn Chinese-American Association provides essential services in the areas of health, service, and education. They conduct a variety of health related workshops and provide medical check-ups, free eye-exams, blood pressure monitoring, and yearly flu shots. The organization also renders services to people of all ages from providing day care to supporting youth and senior citizen cultural activities. Educational programs such as citizenship classes, language skills, and music and dancing classes are also included in this multi-human service center. Enough cannot be said of the many services this organization provides to the community.

Despite the lack of government funding and manpower, the organization has already enrolled more than 1,600 members and serves more than 150 people per day. In its efforts to improve the overall quality of life, the Brooklyn Chinese-American Association has maintained ties with their local elected and public officials. Through town meetings and voter registration drives, the center has made efforts to increase the political participation of the community.

This organization has truly evolved in a short period of time to become integral to the community. Mr. Speaker, distinguished colleagues, please join me in commemorating the efforts of the many who have struggled to make the Brooklyn Chinese-American Association what it is today. Let this organization be held as a prime example of how much can be accomplished when citizens care enough to make a change in their community.

TRIBUTE TO MRS. VALENTINA UMANETS

HON. JACK METCALF

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. METCALF. Mr. Speaker, I rise today to pay tribute to a constituent of mine, Mrs. Valentina Umanets of Bellingham, Washington. Valentina passed away at her home on Friday, May 15th 1998. Valentina was instrumental to the Sister Cities agreement between Bellingham, Washington in my district and Nakhodka in eastern Russia.

In 1989, long before Perestroika allowed for the openness that is now sweeping across Russia, Valentina worked to bring about the Sister City agreement. She worked as the central staff member for the City of Nakhodka on this agreement. In 1993, Valentina immigrated to the United States at the request of Western Washington University and the City of Bellingham to enhance the Sister City program. Because of Valentina's hard work on this project, Bellingham and Nakhodka now have a vibrant Sister City agreement that has flourished in recent years with many valuable exchanges between the local governments, businesses and the citizens of these two communities.

Valentina worked as a Professor of Russian at Western Washington University, and had recently completed work on a new text book for teaching the Russian language. She was loved by her students, and her home always had visitors from either the University or the many Russian immigrants that call Bellingham and Whatcom County home. She was always willing to help those in the community that were in need of assistance with a government agency, a school or those that just needed something translated.

She also held events at the University and parties at her home to celebrate the rich Russian culture. Most recently, Valentina organized ''An Evening of Russian Romance'' at the University which featured Russian dance and music. The food for the evening was carefully prepared in Valentina's kitchen by her students and friends, but always under her watchful eye. Her home would be open each New Years Eve for a Russian celebration of one of the big holidays in Russia. On March 8th of each year, Valentina would again play host to a party in celebration of Womens Day, again an event of great importance in Russia.

Several American men in the Bellingham area, including a member of my staff, have married Russian women, and Valentina was often of great help for these couples as they worked to overcome cultural differences. She became a ''den mother'' of sorts to these women that were so far from home and their own mothers. Valentina was a very happy, caring person.

Mr. Speaker, the citizens of both Bellingham and Nakhodka have suffered a great loss with the passing of Valentina. She has started a wonderful program between these two cities, and has kept it going to the point that it will continue to prosper without her. But to those that have already made friends across the vast Pacific or to those that will in the future, a great deal of thanks is owed to Valentina Umanets.

Mr. Speaker, Valentina is survived by her husband Eugene of Bellingham; her daughter

Erika of Sumas; her son Stanislav of Nakhodka and two grandchildren. Mr. Speaker, I wish to extend my condolences as well as that of my staff to her family. She was loved by many and will be missed by all.

PERSONAL EXPLANATION

HON. JIM RYUN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. RYUN. Mr. Speaker, I was unavoidably detained for several roll call votes yesterday. Had I been present, I would have voted no on roll call votes 156, 157, 158, 159 and yes on roll call vote 160.

HEROES

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. BALLENGER. Mr. Speaker, I come to the floor today to honor and thank the residents of Bakersville, NC for their participation in a rescue that saved the life of a neighbor and defined a true community. On Wednesday, January 7, 1998, Joe Snyder, a resident of the 10th district of North Carolina, suffered a severe heart attack in his home. Meanwhile, the small town of Bakersville was experiencing severe flooding caused by torrential rains, which closed roads and stranded residents. Despite the harsh weather, once neighbors and friends heard of Mr. Snyder's condition, they worked together and successfully transported him to a medical clinic to get the attention he so desperately needed. Not just one neighbor or two friends, but many members of the community united to offer CPR, transportation, and other support.

To the people who were present that day, who volunteered their support and aid, and who helped to turn a tragedy into triumph, I salute your determination and selflessness. As flood waters rose, conditions became extremely perilous, and a friend was in need of a miracle, the community of Bakersville, NC, came together as neighbors to save a life.

TRIBUTE TO THE ISRAEL'S 50TH GALA HONOREES

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to an outstanding collection of individuals for their unwavering commitment to the Jewish community in Los Angeles and their support of Israel throughout its 50 years. I would like to take this opportunity to acknowledge Mr. and Mrs. Eric Alon, Ms. Lily Artenstein, Mr. and Mrs. Mike Davidov, Mr. and Mrs. Shimon Erem, Mr. and Mrs. Jona Goldrich, Mr. Jonathan Mitchel and Ms. Gal Haas, Mr. and Mrs. Dan Sandel, Mr. and Mrs. Yehochai Schneider, Mr. and Mrs. Mike Shapow, Mr. and Mrs. Isaac Shepher, Dr. and Mrs. Jose Spiwak and Mr. and Mrs. Ike Starkman for their innovative leadership of the years.

The Talmud states ''He who does charity and justice is as if he had filled the whole world with kindness.'' In the spirit of these words, these leaders have infused Israel and Los Angeles with a sense of purpose and pride. Through their work, they have upheld the Judaic tradition of generosity and concern for others. Their exceptional leadership has been instrumental in laying the foundation for a strong and cohesive Jewish community in the City of Los Angeles.

In August of 1897, over a century ago, the first Zionist Congress affirmed its aspiration to form a Jewish homeland in the historic State of Israel. After the horrors of the Holocaust, in which one-third of the Jewish population of the world lost their lives, the Jewish people returned to their ancient homeland and established the State of Israel.

Since the Nation's founding, over a million Jews from throughout the world have sought refuge in Israel. Over the last 50 years, Israel has rebuilt a nation, maintained a pluralist democracy—the only one in the Middle East—and based that democracy on freedoms and the rule of law. It has developed a thriving economy and society, transforming the desert into a land of milk and honey.

The State of Israel was formed in the face of tremendous adversity. Its survival has depended upon the support and involvement of people such as these special leaders. I rise today to congratulate these leaders along with the people of Israel on the 50th anniversary of their rebirth and independence.

CONGRATULATING JAMES MOSEMAN AND FINALISTS OF THE 19TH CONGRESSIONAL DISTRICT ARTS COMPETITION

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. POSHARD. Mr. Speaker, I rise today to congratulate my constituent, James Moseman, who attends Marion High School and has won first place in the 19th Congressional District Arts Competition. James was also the winner of the People's Choice Award, along with Trenton Kessler of Stewardson-Strasburg High School.

I was very proud to be honorary chairman of this distinguished event, which was held at Eastwood's Art and Teacher Supply Store in Marion. We had many outstanding contributions from high school students throughout the district. All the entries displayed so much beauty and potential, including finalists Sarah Thompson and Jill Zerrusen, both of Teutopolis High School; Kristin Jankowicz of MacArthur High School in Decatur; Shannon Gonzalez of Neoga High School; Ginnie Gesell of Benton High School; and Gabe McClellan and Candace Taylor, both of Marion High School.

I would like to thank the steering committee members for organizing the district competition. Mary Jo Trimble of the Little Egypt Arts Association and Cary Knoop, a retired Eastern Illinois University arts instructor, were instrumental in helping plan this special event. The judges for the contest, art educators Robert Maguire, Marie Samuel and Rebecca Spoon, also deserve special recognition.

As you know Mr. Speaker, this contest is held every year, after which the winner's paintings are proudly displayed in the United States Capitol building. James' excellent work will be exhibited along with other paints from around the country, and I am honored to represent James and the other participants in the House of Representatives.

It is wonderful to not only see the incredible talents our youth possess, but also to be a part of the exciting events which showcase these talents. Mr. Speaker, please joint me in recognizing James and the finalists from the 19th Congressional District Arts Competition.

HIV/AIDS VACCINE AWARENESS DAY

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. McDERMOTT. Mr. Speaker, we are at an important crossroad in the history of the AIDS epidemic. Although dramatic new treatments and improvements in care for people living with HIV, the virus that causes AIDS, have offered new hope in the AIDS fight, the number of new infections continues to rise among adolescents, women, and minority communities. In fact, about half of new HIV infections occur in young people age 15–24—our future generation. It is clear that the only way to halt the continued spread of this disease is by developing an AIDS vaccine.

''Only a truly effective, preventive HIV vaccine can limit and eventually eliminate the threat of AIDS . . . let us commit ourselves to developing an AIDS vaccine within the next decade,'' President Clinton stated one year ago today. We are closer now than ever before to developing a vaccine that prevents people from becoming infected with HIV. Recent scientific advances coupled with the dedication of thousands of volunteers suggests that the development of a vaccine is feasible. The anniversary of President Clinton's commitment to this goal will be marked by the first HIV/AIDS Vaccine Awareness Day, a national day dedicated to informing people about the vaccine initiative and its role in the fight against the AIDS epidemic in our communities. Enormous challenges remain in our effort to develop a safe and effective HIV/AIDS vaccine, and we, as a community must seize this opportunity to meet these challenges.

Seattle has played an integral role in the development of an AIDS vaccine. The AIDS Vaccine Evaluation Unit (AVEU) at the University of Washington is one of only six centers in the U.S. funded by the National Institutes of Health (NIH) to conduct AIDS vaccine testing. Established 10 years ago, the AIDS Vaccine Evaluation Unit has benefited immeasurably from the dedicated participation of more than 650 community volunteers.

The AVEU volunteers are critical to the pursuit of an AIDS vaccine for many reasons, most notably the scientific and social challenges this vaccine presents. Volunteers are between the ages of 18 and 60, HIV-negative, and in good health. These community volunteers have made a very personal commitment

to the pursuit of the AIDS vaccine by donating a great deal more than just their time. Although the vaccine does not infect the volunteers with HIV, there is some risk. We are grateful to them, for they test the vaccine to determine whether or not it is safe for you and me.

The community participants in AVEU have volunteered despite adverse social forces and scientific obstacles. Vaccine development has been influenced by the expectations of the public, media attention, and the interests of pharmaceutical companies. With the publicity surrounding the new treatments available for HIV, such as the triple drug combination, attention to HIV infection has waned. Such drugs are indeed promising for people living with the AIDS virus, but a vaccine is the only effective way to prevent new cases of HIV/AIDS.

Thankfully, last year, the National Institute of Health's AIDS vaccine research budget was increased by 17.5 percent, to a total of $153 million. This year, the President has asked Congress for another 17.5 percent increase to $180 million. That means there has been an 80 percent increase in AIDS vaccine funding since 1995. According to the National Infectious and Allergy Disease Institute, there are currently 23 vaccine candidates and 49 clinical trials in the works. Nationwide, nearly 3,000 volunteers already have participated in studies.

An AIDS vaccine is possible in our lifetime. What we truly need is aggressive pursuit by federal, state, and local governments with the committed support of the public. President Clinton's AIDS vaccine initiative proclamation was a good first step, but much more is needed. We must make the development of an AIDS vaccine a national and an international priority.

Making the AIDS vaccine a reality will take the continued commitment of the dedicated volunteers, researchers, government, and the public. The President said it best when, on this day a year ago, he pledged, ''If America commits to find an AIDS vaccine and we enlist others in our cause, we will do it.'' I would like to join Governor Locke, Mayor Schell, and the Seattle City Council in dedicating this day to the numerous vaccine volunteers in our community, and thank them for what they have allowed us to accomplish thus far.

Let us mobilize here in the community, as well as in the government, to push for what is on the horizon—an end to AIDS as we know it.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, May 21, 1998, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 3

9:30 a.m.
Indian Affairs
To hold oversight hearings on tribal justice programs, focusing on the Department of Justice's and Department of the Interior's Indian Country Law Enforcement Initiative and other related tribal justice issues.
SR–485

JUNE 4

2:00 p.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To resume hearings on S. 1253, to provide to the Federal land management agencies the authority and capability to manage effectively the federal lands in accordance with the principles of multiple use and sustained yield.
SD–366

JUNE 10

9:30 a.m.
Indian Affairs
To hold oversight hearings on Bureau of Indian Affairs school construction.
SR–485

JUNE 11

2:00 p.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To resume hearings on S. 1253, to provide to the Federal land management agencies the authority and capability to manage effectively the federal lands in accordance with the principles of multiple use and sustained yield.
SD–366

JUNE 12

9:30 a.m.
Special on SPECIAL COMMITTEE ON THE YEAR 2000 TECHNOLOGY PROBLEM
To hold hearings to examine how the Year 2000 computer conversion will affect utilities and the national power grid.
SD–192

JUNE 16

10:00 a.m.
Judiciary
To hold hearings to examine mergers and corporate consolidation.
SD–226

JUNE 18

2:00 p.m.
United States Senate Caucus on International Narcotics Control
To hold hearings to examine United States efforts to combat drugs, focusing on international demand reduction programs.
Room to be announced

JUNE 24

9:30 a.m.
Indian Affairs
To hold hearings on S. 1771, to amend the Colorado Ute Indian Water Rights Settlement Act to provide for a final settlement of the claims of the Colorado Ute Indian Tribes, and S. 1899, ''Chippewa Cree Tribe of the Rocky boy's Reservation Indian Reserved Water Rights Settlement Act of 1998''.
SR–485

JULY 21

10:00 a.m.
Judiciary
To hold oversight hearings to examine the Department of Justice's implementation of the Violence Against Women Act.
SD–226

OCTOBER 6

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs on the legislative recommendations of the American Legion.
345 Cannon Building

CANCELLATIONS

MAY 21

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine the content of certain music lyrics.
SR–25

Wednesday, May 20, 1998

Daily Digest

HIGHLIGHTS

House Committees ordered reported 14 sundry measures.

Senate

Chamber Action

Routine Proceedings, pages S5149–S5246

Measures Introduced: Eleven bills were introduced, as follows: 2094–2104. **Pages S5217–18**

Measures Reported: Reports were made as follows:

S. Con. Res. 30, expressing the sense of the Congress that the Republic of China should be admitted to multilateral economic institutions, including the International Monetary Fund and the International Bank for Reconstruction and Development.

Page S5217

Universal Tobacco Settlement Act: Senate continued consideration of S. 1415, to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, and to redress the adverse health effects of tobacco use, with a modified committee amendment in the nature of a substitute (Amendment No. 2420), taking action on amendments proposed thereto, as follows:

Pages S5149–S5215, S5245–46

Rejected:

Kennedy/Lautenberg Amendment No. 2422 (to Amendment No. 2420), to modify those provisions relating to revenues from payments made by participating tobacco companies. (By 58 yeas to 30 nays, one responding present (Vote No. 144), Senate tabled the amendment.) **Pages S5149–90**

Ashcroft Modified Amendment No. 2427 (to Amendment No. 2422), to strike those provisions relating to consumer taxes. (By 72 yeas to 26 nays, one responding present (Vote No. 143), Senate tabled the amendment.) **Pages S5151–88**

Pending:

Gregg/Leahy Amendment No. 2433 (to Amendment No. 2420), to modify the provisions relating to civil liability for tobacco manufacturers.

Pages S5192–S5202

Gregg/Leahy Amendment No. 2434 (to Amendment No. 2420), in the nature of a substitute.

Pages S5194–S5202

Senate will continue consideration of the bill and the amendments pending thereto on Thursday, May 21, 1998.

Child Support Performance and Incentive Act: Senate insisted on its amendments to H.R. 3130, to provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements, to reform Federal incentive payments for effective child support performance, and to provide for a more flexible penalty procedure for States that violate interjurisdictional adoption requirements, agreed to the request of the House for a conference thereon, and the Chair appointed the following conferees: from the Committee on Finance: Senators Roth, Chafee, Grassley, Moynihan, and Baucus; and from the Committee on Labor and Human Resources: Senators Jeffords, Coats, and Kennedy.

Page S5245

Message From the President: Senate received the following message from the President of the United States:

Transmitting the report of disapproval of the District of Columbia Student Opportunity Scholarship Act of 1998 (S. 1502). (PM–128) **Page S5216**

Messages From the President: **Page S5216**

Messages From the House: **Page S5217**

Measures Referred: **Page S5217**

Executive Reports of Committees: **Page S5217**

Statements on Introduced Bills: **Pages S5218–37**

Additional Cosponsors: **Pages S5237–38**

Amendments Submitted: **Pages S5238–40**

Authority for Committees: **Page S5240**

Additional Statements: **Pages S5240–44**

Record Votes: Two record votes were taken today. (Total—144) **Pages S5188–90**

Adjournment: Senate convened at 9:30 a.m., and adjourned at 8:25 p.m., until 9:30 a.m., on Thursday, May 21, 1998. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S5245.)

Committee Meetings

(Committees not listed did not meet)

APPROPRIATIONS—DEFENSE

Committee on Appropriations: Subcommittee on Defense concluded hearings on proposed budget estimates for fiscal year 1999 for the Department of Defense, focusing on Army programs, after receiving testimony from Robert M. Walker, Acting Secretary of the Army; and Gen. Dennis J. Reimer, Chief of Army Staff.

OSTEOPOROSIS PREVENTION

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, Education, and Related Agencies concluded hearings to examine issues relating to the funding of osteoporosis prevention, education, and research, after receiving testimony from Representative Morella; Stephen I. Katz, Director, National Institute of Arthritis and Musculoskeletal and Skin Diseases, National Institutes of Health, Department of Health and Human Services; Judy A. Black, National Osteoporosis Foundation, Washington, D.C.; Dominic DiMaggio, The Paget Foundation, New York, New York; Susan Burdick, Cambridge Springs, Pennsylvania; and Frederick R. Singer, Santa Monica, California.

HARMFUL ALGAL BLOOMS

Committee on Commerce, Science, and Transportation: Subcommittee on Oceans and Fisheries concluded hearings to examine the scope of harmful algal blooms, including pfiesteria, red tide, brown tide, and paralytic shellfish poisoning, including hypoxia, a condition related to harmful algal blooms, that has created a massive ''dead zone'' in the Gulf of Mexico, and S. 1480, to authorize funds for the National Oceanic and Atmospheric Administration to conduct research, monitoring, education and management activities for the eradication and control of harmful algal blooms, including blooms of Pfiesteria piscicida and other aquatic toxins, after receiving testimony from Terry D. Garcia, Assistant Secretary for Oceans and Atmosphere, and Donald Scavia, Senior Scientist, both of the National Oceanic and Atmospheric Administration, Department of Commerce; Suzanne E. Schwartz, Acting Director, Oceans and Coastal Protection Division, Environmental Protection Agency; Donald Anderson, Woods Hole Oceanographic Institution, Woods Hole, Massachusetts; L. Donelson Wright, College of William and Mary School of Marine Science/Virginia Institute of Marine Science, Gloucester Point, Virginia; Nancy N. Rabalais, Louisiana Universities Marine Consortium, Chauvin; JoAnn M. Burkholder, North Carolina State University, Raleigh; and Michael Voisin, Motivatit Seafoods, Inc., Houma, Louisiana, on behalf of the National Fisheries Institute and the National Marine Manufacturers Association.

BUSINESS MEETING

Committee on Energy and Natural Resources: Committee ordered favorably reported the following measures:

S. 1275, to implement further the Act (Public Law 94–241) approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, with an amendment in the nature of a substitute; and

S. 1693, to renew, reform, reinvigorate, and protect the National Park System, with an amendment in the nature of a substitute.

Also, committee began consideration of S. 624, to establish a competitive process for the awarding of concession contracts in units of the National Park System, but did not complete action thereon, and recessed subject to call.

RUSSIAN POLICY

Committee on Foreign Relations: Subcommittee on European Affairs concluded hearings to examine Russian and domestic policy issues and United States policy toward Russia, after receiving testimony from Stephen Sestanovich, Special Advisor to the Secretary of State for the New Independent States; Peter Reddaway, George Washington University, and Leon Aron, American Enterprise Institute, both of Washington, D.C.; Lauren B. Homer, Law and Liberty Trust, Vienna, Virginia; and Scott M. Blacklin, American Chamber of Commerce, Moscow, Russia.

UNITED NATIONS BUDGET

Committee on Foreign Relations: Subcommittee on International Operations concluded hearings to examine the certification made by the Acting Secretary of State on May 4 regarding the budget of the United Nations, after receiving testimony from Princeton N. Lyman, Assistant Secretary of State for International Organization Affairs.

CHILD CUSTODY PROTECTION

Committee on the Judiciary: Committee concluded hearings on S. 1645, to prohibit taking minors across State lines to avoid laws requiring the involvement of parents in abortion decisions, after receiving

testimony from Representative Ros-Lehtinen; Pennsylvania Attorney General D. Michael Fisher, Harrisburg; Eileen Roberts, Mothers Against Minors' Abortions, Fredricksburg, Virginia; Renee Jenkins, Howard University College of Medicine, Washington, on behalf of the Society for Adolescent Medicine Advocates for Youth; D.C.; John C. Harrison, University of Virginia, Charlottesville; Joyce Farley, Duschore, Pennsylvania; and Bill Bell, Zionsville, Indiana.

IDENTITY FRAUD

Committee on the Judiciary: Subcommittee on Technology, Terrorism, and Government Information concluded hearings on S. 512, to amend the Federal criminal code to provide penalties against any person who knowingly, and with intent to deceive or defraud, obtains, uses, or attempts to obtain or use one or more means of identification other than that lawfully issued to such person, authorizes the U.S. Secret Service to investigate such offenses, directs the U.S. Sentencing Commission to provide sentencing enhancements in connection with such offenses in relation to the number of victims involved, and provides forfeiture and restitution requirements with respect to such offense, after receiving testimony from James Bauer, Deputy Assistant Director, Office of Investigations, United States Secret Service, Department of the Treasury; David Medine, Associate Director for Credit Practices, Bureau of Consumer Protection, Federal Trade Commission; Robert Hartle, Phoenix, Arizona; and Mari J. Frank, Laguna Niguel, California.

BUSINESS MEETING

Committee on Indian Affairs: Committee ordered favorably reported S. 2069, to permit the leasing of mineral rights, in any case in which the Indian owners of an allotment that is located within the boundaries of the Fort Berthold Indian Reservation in North Dakota and held in trust by the United States have executed leases to more than 50 percent of the mineral estate of that allotment, with an amendment in the nature of a substitute.

Also, committee began markup of S. 1691, to provide for Indian legal reform, but did not complete action thereon, and recessed subject to call.

ORGANIZATIONAL MEETING

Special Committee on the Year 2000 Technology Problem: Committee met and adopted its rules of procedure.

House of Representatives

Chamber Action

Bills Introduced: 20 public bills, H.R. 3904–3923; and 1 private bill, H.R. 3924, were introduced.

Pages H3623–24

Reports Filed: Reports were filed as follows:

H. Res. 442, providing for consideration of H.J. Res. 119, proposing an amendment to the Constitution of the United States to limit campaign spending, and for consideration of H.R. 2183, to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office (H. Rept. 105–545). **Page H3623**

Speaker Pro Tempore: Read a letter from the Speaker wherein he designated Representative Shaw to act as Speaker pro tempore for today. **Page H3491**

Guest Chaplain: The prayer was offered by the guest Chaplain, the Rev. Scott Rambo of Sugar Land, Texas. **Page H3491**

DOD Authorization: The House began consideration of amendments to H.R. 3616, to authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1999. The House completed general debate on May 19. Further consideration of the bill will resume on Thursday, May 21. **Pages H3505–84**

Agreed To:

The Spence amendment that expresses the sense of Congress that U.S. business interests must not be placed above U.S. national security interests and that the United States should not enter into new agreements with the People's Republic of China (PRC) involving space or missile-related technology or increase the number of military-to-military contacts; that the executive branch should ensure that U.S. law regarding the export of satellites to the PRC is enforced and the relevant criminal investigation proceeds with all due dispatch; and that the President should indefinitely suspend the export of satellites of U.S. origin to China (agreed to by a recorded vote of 417 ayes to 4 noes, Roll No. 167);

Pages H3560–61, H3565–66

The Bereuter amendment that prohibits any United States participation in the investigation of a

Peoples Republic of China launch failure of a satellite of U.S. origin (agreed to by a recorded vote of 414 ayes to 7 noes, Roll No. 168);

Pages H3561–63, H3566–67

The Hefley amendment that prohibits the export of missile equipment or missile related technology to China (agreed to by a recorded vote of 412 ayes to 6 noes, Roll No. 169); **Pages H3563–64, H3567**

The Hunter amendment that prohibits the export and reexport of satellites, including commercial satellites and satellite components, of U.S. origin to the People's Republic of China (agreed to by a recorded vote of 364 ayes to 54 noes, Roll No. 170);

Pages H3564–65, H3567–68

The Gilman amendment that prohibits any procurement, training, or operation and maintenance restrictions on U.S. Armed Forces under the Kyoto Protocol to the United Nations Framework Convention on Climate Change (agreed to by a recorded vote of 420 ayes with none voting ''no'' and 1 voting ''present'', Roll No. 172); and

Pages H3574–77, H3582–83

The Hefley amendment that prohibits DOD funding to assign or detail any member of the Armed Forces for duty with the United Nations Rapidly Deployable Mission Headquarters, or any similar U.N. military operations headquarters (agreed to by a recorded vote of 250 ayes to 172 noes, Roll No. 173). **Pages H3577–81, H3583**

Rejected:

The Lowey amendment that sought to repeal provisions of current law that prohibit privately funded abortions for female members of the armed forces and dependents at DOD facilities overseas (rejected by a recorded vote of 190 ayes to 232 noes, Roll No. 171). **Pages H3568–74, H3581–82**

H. Res. 441, the rule that is providing for the further consideration on the bill, was agreed to earlier by a recorded vote of 304 ayes to 108 noes, Roll No. 166. Agreed to order the previous question by yea and nay vote of 281 yeas to 134 nays, Roll No. 165. **Pages H3495–H3505**

Earlier, agreed by unanimous consent, that the Taylor of Mississippi and Everett amendments shall be deemed to have been included as the last amendments printed in part D of H. Rept. 105–544, the report of the Committee on Rules accompanying the rule. **Page H3500**

BESTEA—Motion to Instruct Conferees: Agreed to the Obey motion to instruct House conferees on H.R. 2400, Building Efficient Surface Transportation and Equity Act, to insist that no provisions to prohibit or reduce service-connected disability compensation to veterans for smoking-related illnesses be included in the conference report on H.R. 2400 to offset spending for highway or transit programs by yea and nay vote of 422 yeas with none voting ''nay'', Roll No. 174. **Pages H3584–90**

BESTEA—Motions to Instruct Conferees: Representative Minge and Representative Obey notified the House of their intention to offer motions on Thursday, May 21, to instruct House conferees on H.R. 2400, Building Efficient Surface Transportation and Equity Act. **Pages H3584, H3589**

Senate Messages: Message received from the Senate today appears on page H3491.

Amendments: Amendments ordered printed pursuant to the rule appear on page H3625.

Quorum Calls—Votes: Two yea and nay votes and eight recorded votes developed during the proceedings of the House today and appear on pages H3503–04, H3504–05, H3565–66, H3566–67, H3567, H3567–68, H3581, H3581–82, H3583, and H3590. There were no quorum calls.

Adjournment: Met at 10:00 a.m. and adjourned at 10:06 p.m.

Committee Meetings

PLANT PROTECTION ACT

Committee on Agriculture: Subcommittee on Department Operations, Nutrition, and Foreign Agriculture held a hearing on H.R. 3766, Plant Protection Act. Testimony was heard from Craig Reed, Acting Administrator, Animal and Plant Health Inspection Service, USDA; and public witnesses.

HAZARD ANALYSIS AND CRITICAL CONTROL POINT REGULATORY REQUIREMENTS IMPLEMENTATION

Committee on Agriculture: Subcommittee on Livestock, Dairy, and Poultry held a hearing on the implementation of Hazard Analysis and Critical Control Point (HACCP) regulatory requirements. Testimony was heard from Thomas Billy, Administrator, Food Safety and Inspection Service, USDA.

LABOR-HHS-EDUCATION APPROPRIATIONS

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, and Education held a hearing on Nobel Laureate. Testimony was heard from the following past recipients of the Nobel Prize: Stanley Prusiner; Peter Doherty; David Baltimore; Joshua Lederberg; Alfred Gilman; and Steven Chu.

BUDGET RESOLUTION

Committee on the Budget: Began markup of the Budget Resolution for Fiscal year 1999.

BIOMETRICS AND THE FUTURE OF MONEY

Committee on Banking and Financial Services: Subcommittee on Domestic and International Monetary Policy held a hearing on Biometrics and the Future of Money. Testimony was heard from public witnesses.

ENERGY DEPARTMENT NUCLEAR FACILITIES—EXTERNAL REGULATION

Committee on Commerce: Subcommittee on Energy and Power held a hearing on External Regulation of Department of Energy Nuclear Facilities. Testimony was heard from Elizabeth Moler, Deputy Secretary, Department of Energy; and the following officials of the NRC: Shirley Ann Jackson, Chairman; Greta Joy Dicus, Nils J. Diaz and Edward McGaffigan, Jr., all Commissioners.

AUTO CHOICE REFORM ACT

Committee on Commerce: Subcommittee on Finance and Hazardous Materials held a hearing on H.R. 2021, Auto Choice Reform Act of 1997. Testimony was heard from Senator McConnell; Representatives Armey and Moran of Virginia; and public witnesses.

AMERICAN WORKER PROJECT

Committee on Education and the Workforce: Subcommittee on Oversight and Investigations continued hearings on American Worker Project: Innovative Workplaces for the Future. Testimony was heard from public witnesses.

KYOTO PROTOCOL

Committee on Government Reform and Oversight: Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs continued hearings on ''The Kyoto Protocol: Is the Clinton-Gore Administration Selling Out Americans? Part III''. Testimony was heard from Cecil Underwood, Governor, State of West Virginia; Scott Orr, Representative, State of Montana; and Daniel Canan, Mayor, Muncie, State of Indiana.

SIX INFECTIOUS DISEASES—ERADICATION AND ELIMINATION

Committee on International Relations: Held a hearing on Eradication and Elimination of Six Infectious Diseases. Testimony was heard from Ben Nelson, Director, International Relations and Trade, National Security and International Affairs Division, GAO; Claire Broome, M.D., Acting Director, Centers for Disease Control, Department of Health and Human Services; Nils Daulaire, Senior Health Advisor, AID, U.S. International Development Cooperation Agency; David L. Heymann, Director, Division of Emerging and Other Communicable Diseases. Surveillance and Control, World Health Organization; and public witnesses.

AFRICA—ANTI-CORRUPTION EFFORTS

Committee on International Relations: Subcommittee on Africa held a hearing on Anti-Corruption Efforts in Africa. Testimony was heard from Carol Peasley, Acting Administrator, Africa, AID, U.S. International Development Cooperation Agency; and public witnesses.

U.S-TAIWAN RELATIONS

Committee on International Relations: Subcommittee on Asia and the Pacific held a hearing on U.S.-Taiwan Relations. Testimony was heard from Susan Shirk, Deputy Assistant Secretary, East Asian and Pacific Affairs, Department of State; Kurt Campbell, Deputy Assistant Secretary, Asian and Pacific Affairs, Department of Defense; and public witnesses.

MISCELLANEOUS MEASURES

Committee on the Judiciary: Ordered reported the following bills: H.R. 3736, amended, Workforce Improvement and Protection Act of 1998; and H.R. 3633, Controlled Substances Trafficking Prohibition Act.

MISCELLANEOUS MEASURES; COMMITTEE REPORT—BLM MINING REGULATIONS

Committee on Resources: Ordered reported the following bills: H.R. 1154, amended, Indian Federal Recognition Administrative Procedures Act of 1997; H.R. 1635, amended, National Underground Railroad Network to Freedom Act of 1997; H.R. 1865, Spanish Peaks Wilderness Act of 1997; H.R. 2411, amended, to provide for a land exchange involving the Cape Cod National Seashore and to extend the authority for the Cape Cod National Seashore Advisory Commission; H.R. 2538, amended, Guadalupe-Hidalgo Treaty Land Claims Act of 1997; H.R. 2742, amended, California Indian Land Transfer Act; H.R. 2795, amended, Irrigation Project Contract Extension Act of 1997; H.R. 2812, Unrecognized Southeast Alaska Native Communities Recognition Act; H.R. 3267, amended, Sonny Bono Memorial Salton Sea Reclamation Act; H.R. 3520, to adjust the boundaries of the Lake Chelan National Recreation Area and the adjacent Wenatchee National Forest in the State of Washington; H.R. 3796, to authorize the Secretary of Agriculture to convey the administrative site for the Rogue River National Forest and use the proceeds for the construction or improvement of offices and support buildings for the Rogue River National Forest and the Bureau of Land Management; and H.R. 3797, Wyandotte Tribe Settlement Act of 1998.

The Committee also approved a Committee Report on Mining Regulations promulgated by the Bureau of Land Management.

BIPARTISAN CAMPAIGN INTEGRITY ACT CONSTITUTIONAL AMENDMENT TO LIMIT CAMPAIGN SPENDING

Committee on Rules: Granted, by voice vote, an open rule providing for consideration of H.J. Res. 119, Constitutional Amendment to Limit Campaign Spending, with one hour of general debate equally divided between Representative DeLay and a Member in favor of the joint resolution. The rule provides that the joint resolution shall be considered as read. The rule authorizes the Chair to accord priority in recognition to Members who have pre-printed their amendments in the Congressional Record. The rule allows for the Chairman of the Committee of the Whole to postpone votes during consideration of the bill, and to reduce voting time to five minutes on a postponed question if the vote follows a fifteen minute vote. The rule provides one motion to recommit with or without instructions. The rule also provides for consideration of H.R. 2183, Bipartisan Campaign Integrity Act of 1997, under a modified open amending process any time after adoption of the rule. The rule provides two hours of general debate, equally divided between the chairman and ranking minority member of the Committee on House Oversight. The rule provides for consideration of the amendments in the nature of a substitute specified in the Rules Committee report accompanying this resolution. The rule provides that each amendment in the nature of a substitute may be offered only in the order specified, may be offered only by the Member who caused it to be printed in the Congressional Record or his designee, shall be considered as read, and shall not be subject to a substitute amendment or to a perfecting amendment carrying a tax or tariff measure. The rule waives all points of order against the amendments in the nature of a substitute. The rule provides one hour of general debate at the beginning of consideration of each of the amendments in the nature of a substitute, which shall be equally divided and controlled by the Member who caused it to be printed in the Congressional Record or his designee and an opponent. The rule authorizes the Chair to accord priority in recognition to Members who have pre-printed their amendments to the amendments in the nature of a substitute in the Congressional Record. The rule provides that if more than one amendment in the nature of a substitute is adopted, then only the one receiving the greater number of affirmative votes shall be considered as finally adopted and reported to the House. The rule allows for the Chairman of the Committee of the Whole to postpone votes during consideration of the bill, and to reduce voting time to five minutes on a postponed question if the vote follows a fifteen minute vote. Finally, the rule provides for one motion to recommit with or without instructions. Testimony was heard from Chairman Thomas and Representatives DeLay, Shays, Fawell, Goodlatte, Horn, Smith of Michigan, Bass, Campbell, Fossella, Hutchinson, Snowbarger, Gejdenson, Obey, Stenholm, Kaptur, Traficant, Slaughter, Maloney of New York, Meehan, Farr, Allen and Capps.

OVERSIGHT—EPA'S RULE ON PAINTS AND COATINGS

Committee on Science: Subcommittee on Energy and Environment held an oversight hearing on EPA's Rule on Paints and Coatings: Has EPA met the Research Requirements of the Clean Air Act? Testimony was heard from Robert Brenner, Acting Deputy Assistant Administrator, Office of Air and Radiation, EPA; and public witnesses.

SBA'S PROGRAMS TO ASSIST VETERANS

Committee on Small Business: Subcommittee on Government Programs and Oversight and the Subcommittee on Benefits of the Committee on Veterans' Affairs held a joint hearing on the SBA's Programs to Assist Veterans. Testimony was heard from Clifton Toulson, Jr., Assistant Administrator, Veterans Affairs, SBA; and public witnesses.

FEDERAL RAILROAD ADMINISTRATION REAUTHORIZATION

Committee on Transportation and Infrastructure: Subcommittee on Railroads held a hearing on Federal Railroad Administration Reauthorization: Regulatory Process. Testimony was heard from Donald M. Itzkoff, Deputy Administrator, Federal Railroad Administration, Department of Transportation; Phyllis F. Scheinberg, Associate Director, Transportation Issues, Resources, Community, and Economic Development Division, GAO; and public witnesses.

DISASTER MITIGATION ACT; SMALL WATERSHED PROJECTS

Committee on Transportation and Infrastructure: Subcommittee on Water Resources and Environment approved for full Committee action amended H.R. 3869, Disaster Mitigation Act of 1998.

The Subcommittee also approved for full Committee action 2 Natural Resources Conservation Service Small Watershed Projects.

WHISTLEBLOWER

Permanent Select Committee on Intelligence: Met in executive session to hold a hearing on Whistleblower. Testimony was heard from departmental witnesses.

Joint Meetings

U.S. INTELLIGENCE OPERATIONS

Joint Economic Committee: Committee concluded hearings to examine the current state of intelligence operations in the United States, focusing on Russian radio frequency technology, Russia's offensive biological weapons program, and Chinese intelligence operations, after receiving testimony from Victor I. Sheymov, ComShield Corporation, Washington, D.C., former KGB Eighth Chief Directorate; Kenneth Alibek, Arlington, Virginia, former First Deputy of the Soviet Union's Offensive Biological Warfare Program; Nicholas Eftimiades, Chinese Intelligence Operations, Silver Spring, Maryland; and Brian Fairchild, Brian P. Fairchild and Associates, Seattle, Washington, former Staff Operations Officer, Central Intelligence Agency's Directorate of Operations.

COMMITTEE MEETINGS FOR THURSDAY, MAY 21, 1998

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Energy and Natural Resources, to hold joint hearings with the Committee on Foreign Relations, to examine the status of Iraqi sanctions, 10 a.m., SD–419.

Subcommittee on Energy Research and Development, Production and Regulation, to hold hearings on S. 1141, to amend the Energy Policy Act of 1992 to take into account newly developed renewable energy-based fuels and to equalize alternative fuel vehicle acquisition incentives to increase the flexibility of controlled fleet owners and operators, and S. 1418, to promote the research, identification, assessment, exploration, and development of methane hydrate resources, 2 p.m., SD–366.

Committee on Environment and Public Works, business meeting, to consider pending calendar business, 9:30 a.m., SD–406.

Committee on Foreign Relations, to hold joint hearings with the Committee on Energy and Natural Resources, to examine the status of Iraqi sanctions, 10 a.m., SD–419.

Full Committee, to hold hearings on the nomination of Jeffrey Davidow, of Virginia, to be Ambassador to Mexico, 2 p.m., SD–419.

Committee on Governmental Affairs, Subcommittee on International Security, Proliferation and Federal Services, to hold hearings to examine the benefits of commercial space launch for foreign satellite and Intercontinental Ballistic Missiles (ICBM) programs, 10 a.m., SD–342.

Committee on the Judiciary, business meeting, to consider pending calendar business, 10 a.m., SD–226.

Committee on Labor and Human Resources, to hold hearings on genetic information issues, 10 a.m., SD–430.

Committee on Indian Affairs, to hold oversight hearings on addressing the unmet health care needs in Indian country, 1 p.m., SD–106.

Select Committee on Intelligence, to hold hearings on the nomination of Joan Avalyn Dempsey, of Virginia, to be Deputy Director of Central Intelligence for Community Management, 11 a.m., room to be announced.

NOTICE

For a listing of Senate committee meetings scheduled ahead, see page E929 in today's Record.

House

Committee on Agriculture, hearing to review U.S. Agriculture, the Asian Financial Crisis, and the International Monetary Fund, 10:30 a.m., 1300 Longworth.

Committee on Commerce, Subcommittee on Telecommunications, Trade, and Consumer Protection, hearing on Electronic Commerce: Doing Business On-Line, 10 a.m., 2123 Rayburn.

Committee on Education and the Workforce, Subcommittee on Early Childhood, Youth and Families, to markup the following measures: H. Res. 401, expressing the sense of the House of Representatives that social promotion in America's schools should be ended and can be ended through the use of high-quality, proven programs and practices; H. Res. 399, urging the Congress and the President to work to fully fund the Federal Government's obligation under the Individuals with Disabilities Education Act; H.R. 3254, IDEA Technical Amendments Act of 1998; H.R. 3871, to amend the National School Lunch Act to provide children with increased access to food and nutrition assistance during the summer months; H.R. 3874, WIC Reauthorization Amendments of 1998; and H.R. 3892, English Language Fluency Act, 10 a.m., 2175 Rayburn.

Committee on Government Reform and Oversight, to consider the following: H.R. 3630, to redesignate the facility of the United States Postal Service located at 9719 Candelaria Road, NE, in Albuquerque, New Mexico, as the ''Steven Schiff Post Office''; H.R. 3808, to designate the United States Post Office located at 47526 Clipper Drive in Plymouth, Michigan, as the ''Carl D. Pursell Post Office''; H.R. 2798, to redesignate the building of the United States Postal Service located at 2419 West Monroe Street, in Chicago, Illinois, as the ''Nancy B. Jefferson Post Office Building''; H.R. 2799, to redesignate the building of the United States Postal Service located at 324 South Laramie Street, in Chicago, Illinois, as the ''Reverend Milton R. Brunson Post Office Building''; H.R. 1704, Congressional Office of Regulatory Analysis Creation Act; pending Committee business; and release of depositions, 10 a.m., 2154 Rayburn.

Subcommittee on Census, hearing on Oversight of the 2000 Census: Reviewing the Long and Short Form Questionnaires, 1:30 p.m., 2247 Rayburn.

Committee on International Relations, Subcommittee on Asia and the Pacific, to mark up H. Con. Res. 270, acknowledging the positive role of Taiwan in the current Asian financial crisis and affirming the support of the American people for peace and stability on the Taiwan Strait and security for Taiwan's democracy, 2 p.m., 2200 Rayburn.

Subcommittee on International Economic Policy and Trade, hearing on Intellectual Property Rights: the Music and Film, 1 p.m., 2172 Rayburn.

Committee on the Judiciary, hearing on the following bills: H.R. 2448, to provide protection from personal intrusion; and H.R. 3224, Privacy Protection Act of 1998, 9 a.m., 2141 Rayburn.

Subcommittee on the Constitution, hearing on H.R. 3682, Child Custody Protection Act, 10 a.m., 2226 Rayburn.

Subcommittee on Courts and Intellectual Property, oversight hearing on issues in trademark protection and the impact of regulatory delay on patents; and to hold a hearing on the following: H.R. 3891, Trademark Anticounterfeiting Act of 1998; and H.R. 3119, to amend the Trademark Act of 1946 with respect to the dilution of famous marks, 2 p.m., 2237 Rayburn.

Subcommittee on Immigration and Claims, to consider subpoenas of witnesses; and to hold an oversight hearing on Alternative Proposals to Restructure the Immigration and Naturalization Service, 9:00 a.m., 2237 Rayburn.

Committee on Resources, Subcommittee on Energy and Mineral Resources, to continue hearings on H.R. 3334, Royalty Enhancement Act of 1998, (Part II), 1 p.m., 1334 Longworth.

Subcommittee on National Parks and Public Lands, to mark up the following measures: H.J. Res. 113, approving the location of a Martin Luther King, Jr. Memorial in the Nation's Capitol; H.R. 1042, to amend the Illinois and Michigan Canal Heritage Corridor Act of 1984 to extend the Illinois and Michigan Canal Heritage Corridor Commission; H.R. 1894, to reauthorize the Delaware Water Gap National Recreation Area Citizen Advisory Commission for 10 additional years; H.R. 2223, Education Land Grant Act; H.R. 2776, to amend the Act entitled ''An Act to provide for the establishment of the Morristown National Historical Park in the State of New Jersey, and for other purposes'' to authorize the acquisition of property known as the Warren property; H.R. 2993, to provide for the collection of fees for the making of motion pictures, television productions, and sound tracks in National Park System and National Wildlife Refuge System units; and H.R. 3047, to authorize expansion of Fort Davis National Historic Site in Fort Davis, Texas, by 16 acres, 10 a.m., 1324 Longworth.

Committee on Science, Subcommittee on Basic Research and the Subcommittee on Energy and Environment, joint oversight hearing on External Regulation of DOE Labs: Status of OSHA and NRC Pilot Programs, 10 a.m., 2318 Rayburn.

Subcommittee on Space and Aeronautics, oversight hearing on Asteroids: Perils and Opportunities, 2:30 p.m., 2318 Rayburn.

Committee on Small Business, Subcommittee on Empowerment, hearing on entrepreneurial education, 10 a.m., 2360 Rayburn.

Committee on Ways and Means, Subcommittee on Social Security, to continue hearings on the Future of Social Security for this Generation and the Next, 10 a.m., B–318 Rayburn.

Next Meeting of the SENATE

9:30 a.m., Thursday, May 21

Senate Chamber

Program for Thursday: Senate will continue consideration of S. 1415, Universal Tobacco Settlement Act.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m. Thursday, May 21

House Chamber

Program for Thursday: Consideration of H. Res. 436, making in order H. Res. 432, expressing the Sense of the House of Representatives Concerning the President's Assertions of Executive Privilege and H. Res. 433, calling upon the President of the United States to Urge Full Cooperation by his Former Political Appointees and Friends and their Associates with Congressional Investigations.

Complete Consideration of H.R. 3616, National Defense Authorization Act for Fiscal Year 1999 (structured rule); and

Consideration of H.R. 2183, Bipartisan Campaign Integrity Act of 1997 (modified open rule, 2 hours of general debate).

Extensions of Remarks, as inserted in this issue

HOUSE

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